



## Notice of Service of Process

Transmittal Number: 21485999  
Date Processed: 05/07/2020

**Primary Contact:** SOP Team nwsop@nationwide.com  
Nationwide Mutual Insurance Company  
Three Nationwide Plaza  
Columbus, OH 43215

**Electronic copy provided to:** Ashley Roberts

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**Entity:** AMCO Insurance Company  
Entity ID Number 0115190

**Entity Served:** Amco Insurance Company

**Title of Action:** Nashville Underground, LLC vs. Nationwide Property and Casualty Insurance Company and its Wholly Owned Subsidiary, Amco Insurance Company

**Matter Name/ID:** Nashville Underground, LLC vs. Nationwide Property and Casualty Insurance Company and its Wholly Owned Subsidiary, Amco Insurance Company (10231487)

**Document(s) Type:** Summons/Complaint

**Nature of Action:** Contract

**Court/Agency:** Davidson County Circuit Court, TN

**Case/Reference No:** 20C822

**Jurisdiction Served:** Tennessee

**Date Served on CSC:** 05/07/2020

**Answer or Appearance Due:** 30 Days

**Originally Served On:** TN Dept of Insur 04/22/2020

**How Served:** Certified Mail

**Sender Information:** Clements Law Firm, PLLC  
N/A

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Information contained on this transmittal form is for record keeping, notification and forwarding the attached document(s). It does not constitute a legal opinion. The recipient is responsible for interpreting the documents and taking appropriate action.

**To avoid potential delay, please do not send your response to CSC**

251 Little Falls Drive, Wilmington, Delaware 19808-1674 (888) 690-2882 | sop@cscglobal.com

**STATE OF TENNESSEE  
Department of Commerce and Insurance  
500 James Robertson Parkway  
Nashville, TN 37243-1131  
PH - 615.741.1670, FX - 615.532.2788  
Service.Process@tn.gov**

April 27, 2020

Amco Insurance Company  
2908 Poston Avenue, C/O C S C  
Nashville, TN 37203  
NAIC # 19100

Certified Mail  
Return Receipt Requested  
7019 1120 0000 4178 2887  
Cashier # 53112

Re: Nashville Underground Llc V. Amco Insurance Company  
Docket # 20C822

To Whom It May Concern

Pursuant to Tennessee Code Annotated §56-2-504 or § 56-2-506, the Department of Commerce and Insurance was served April 22, 2020, on your behalf in connection with the above-styled proceeding. Documentation relating to the subject is herein enclosed.

Designated Agent  
Service of Process

Enclosures

cc: Circuit Court Clerk  
Davidson County  
1 Public Square, Room 302  
Nashville, Tn 37219-6303

Service ID 150880

**STATE OF TENNESSEE  
DAVIDSON COUNTY  
20<sup>TH</sup> JUDICIAL DISTRICT**

NASHVILLE UNDERGROUND, LLC

Plaintiff

vs.

AMCO INSURANCE COMPANY  
C/O COMM OF INS  
NASHVILLE, TN 37248

Defendant

CIVIL ACTION  
DOCKET NO. 20C822  
Method of Service:  
Commissioner Of Insurance

To the above named Defendant:

You are summoned to appear and defend a civil action filed against you in the Circuit Court, 1 Public Square, Room 302, P.O. Box 196303, Nashville, TN 37219-6303, and your defense must be made within thirty (30) days from the date this Summons is served upon you. You are further directed to file your defense with the Clerk of the Court and send a copy to the Plaintiff's attorney at the address listed below.

In case of your failure to defend this action by the above date, judgment by default will be rendered against you for the relief demanded in the Complaint.

ISSUED: 04/13/2020

**RICHARD R. ROOKER**

Circuit Court Clerk  
Davidson County, Tennessee

By:



Deputy Clerk

ADDRESS OF PLAINTIFF'S ATTORNEY OR PLAINTIFF:

KIRK CLEMENTS  
105 BROADWAY  
ST. 2  
NASHVILLE, TN 37201

**NOTICE TO THE DEFENDANT:**

Tennessee law provides a Ten Thousand and 00/100 Dollars (\$10,000.00) debtor's equity interest personal property exemption from execution or seizure to satisfy a judgment. If a judgment should be entered against you in this action and you wish to claim property as exempt, you must file a written list, under oath, of the items you wish to claim as exempt with the Clerk of the Court. The list may be filed at any time and may be changed by you thereafter as necessary; however, unless it is filed before the judgment becomes final, it will not be effective as to any execution or garnishment issued prior to the filing of the list. Certain items are automatically exempt by law and do not need to be listed; these include items of necessary wearing apparel (clothing) for yourself and your family and trunks or other receptacles necessary to contain such apparel, family portraits, the family Bible, and school books. Should any of these items be seized, you would have the right to recover them. If you do not understand your exemption right or how to exercise it, you may wish to seek the counsel of a lawyer.



To request an ADA accommodation, please contact Dart Gore at (615) 880-3309

Service ID 150880

Service ID

**STATE OF TENNESSEE  
DAVIDSON COUNTY  
20<sup>TH</sup> JUDICIAL DISTRICT**

NASHVILLE UNDERGROUND, LLC

Plaintiff

vs.

AMCO INSURANCE COMPANY  
C/O COMM OF INS  
NASHVILLE, TN 37248

Defendant

CIVIL ACTION  
DOCKET NO. 20C822  
Method of Service:  
Commissioner Of Insurance

**RETURN ON PERSONAL SERVICE OF SUMMONS**

I hereby certify and return that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, I:

\_\_\_\_\_ served this Summons and Complaint/Petition on \_\_\_\_\_ in the following manner:

\_\_\_\_\_ failed to serve this Summons within 90 days after its issuance because \_\_\_\_\_

\_\_\_\_\_  
Sheriff/Process Server



To request an ADA accommodation, please contact Dart Gore at (615) 880-3309

Service ID 150880



**IN THE CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE  
AT NASHVILLE**

<b>NASHVILLE UNDERGROUND, LLC</b>	)	
	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	<b>NO.</b>
	)	<b>JURY DEMAND</b>
<b>NATIONWIDE PROPERTY AND</b>	)	
<b>CASUALTY INSURANCE COMPANY</b>	)	
<b>and its wholly owned subsidiary,</b>	)	
<b>AMCO INSURANCE COMPANY,</b>	)	
<b>Defendants.</b>		

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**COMPLAINT**

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COMES NOW the Plaintiff NASHVILLE UNDERGROUND, LLC (hereinafter sometimes referred to as "Nashville Underground"), by and through its attorney of record, and files a civil action against Defendant Nationwide Property and Casualty Insurance Company (hereinafter sometimes referred to as "Nationwide") and its wholly owned subsidiary Defendant AMCO Insurance Company (hereinafter sometimes referred to as "AMCO") and for cause, would aver as follows:

1. The Plaintiff's causes of action arise in tort under common law and the laws of the State of Tennessee for damages Plaintiff sustained as a result of Defendants' wrongful denial of Plaintiff's commercial insurance claim for losses and damages which were caused directly and/or indirectly by the recent pandemic.

### **PARTIES**

2. Plaintiff Nashville Underground, LLC is a corporation formed under the laws of the State of Tennessee and operating under the laws of the State of Tennessee with a principle place of business located at 105 Broadway, Nashville, Tennessee, Davidson County. Plaintiff's primary business is as a live music venue, restaurant and bar.

3. The Defendant Nationwide Property and Casualty Insurance Company is a for-profit insurance company authorized to engage in, and does engage in, the sale and delivery of property insurance within the State of Tennessee, with its principle place of business located at One West Nationwide Blvd, Columbus Ohio 43215-2220. Defendant Nationwide may be served with service of process through the Tennessee Department of Commerce and Insurance, 500 James Robertson Parkway, Nashville, TN 37243. At all times material hereto, Nationwide was the sole owner of its subsidiary Defendant AMCO.

4. The Defendant AMCO Insurance Company is a for-profit insurance company authorized to engage in, and does engage in, the sale and delivery of property insurance within the State of Tennessee, with its principle place of business located at 1100 Locust Street, Des Moines, Iowa 50391-1100. Defendant AMCO may be served with service of process through the Tennessee Department of Commerce and Insurance, 500 James Robertson Parkway, Nashville, TN 37243. At all times material hereto, AMCO was a wholly owned subsidiary of Defendant Nationwide.

### **VENUE AND JURISDICTION**

5. Venue is properly situated in Davidson County pursuant to Tenn. Code Ann. § 20-4-101.

6. Jurisdiction is proper in this court pursuant to Tenn. Code Ann. § 16-10-101.

**FACTUAL ALLEGATIONS**

7. Plaintiff's claim for insurance indemnification arises from direct physical loss to its property and business income loss on and after March 13, 2020.

8. Plaintiff Nashville Underground, LLC, which does business as Nashville Underground, is a nationally acclaimed seven-story restaurant, bar, nightclub and live music venue located directly on Broadway in downtown Nashville, which currently is one of the most popular entertainment districts in the United States. Nashville Underground is open seven (7) days a week with varying hours; opening as early as 9 a.m. and closing as late as 3 a.m.. Nashville Underground generates significant revenue from private events, live music performances, DJ events, including a wildly popular weekend nightclub, food sales and alcohol sales. Nashville Underground does not derive any revenue from drive-thru, curbside pickup or delivery service.

9. Plaintiff renewed its commercial insurance policy with Nationwide and/or AMCO on or about November 22, 2019 for coverage from date of purchase through November 22, 2020, Policy Number ACP CPAA 30-2-8529540 ("Policy"). Such Policy provided indemnification, *inter alia*, for property loss and business income loss. The relevant portions of the Policy are attached hereto as follows: Exhibit A- Declarations; Exhibit B- Building and Personal Property Coverage Form; Exhibit C- Business Income Coverage Form; Exhibit D- Causes of Loss – Special Form; Exhibit E- Food Contamination Endorsement.

10. At all times material hereto, Plaintiff faithfully paid all premiums and fees and the Policy was in full force and effect.



11. In or about February of 2020, the first case of COVID-19 which is caused by SARS-Coronavirus-2, commonly referred to as the Coronavirus, was reported in the United States.

12. On or about March 12, 2020, the Governor of Tennessee signed Executive Order No. 14 declaring a state of emergency in order to facilitate the response to the spread and the effects of Coronavirus.

13. On or about March 15, 2020, in response to the fear of the spread of the Coronavirus, the Nashville-Davidson County Board of Health issued a Declaration thereby directing the Chief Medical Director to order the closure of certain businesses, including, all restaurants and bars which sold more alcohol than food. Within this resolution, the Board of Health stated that the basis of its Declaration was, *inter alia*, to implement “basic precautions of infection control and prevention, including . . . practicing respiratory and hand hygiene” and that “COVID-19 is a communicable disease with significant morbidity and mortality, and presents a severe danger to the public health.”

14. On or about March 17, 2020, the Chief Medical Director issued an order closing all establishments that sold more alcohol than food. Upon information and belief, restaurant and bars were closed, in part, because the Board of Health and the Chief Medical Director were attempting to limit the spread of the Coronavirus through contamination of food, the conveyances of food, contamination of employees and the contamination of the interior, structure, furnishings, fixtures and equipment of the restaurants and bars.

15. Nashville Underground is in the category of business closed by the Chief’s Medical Director’s Order and, thus, Nashville Underground was forced to fully shutter its

business, thereby losing all of its business income.

16. On or about March 22, 2020, the Tennessee Governor Bill Lee issued Executive Order No. 17, which effectively closed all restaurants and bars, with the exception of restaurants which served menu items through drive-thru, curbside pickup and/or delivery. Nashville Underground's business model does not include providing menu items through drive-thru, curbside pickup and/or delivery services.

17. The aforementioned Executive Order additionally admonished the public to limit the spread of the Coronavirus by "practicing good personal hygiene, including washing hands, especially after touching any frequently used item or surface, avoiding touching the face, and disinfecting frequently used items and surfaces as much as possible."

18. On or before the closure of Plaintiff's business, upon information or belief, one or more employees believed they were in contact with an individual infected with the coronavirus or had been in contact with an individual infected with the coronavirus.

19. The subject Policy is an all-risk policy as such provides that the Policy covers causes of loss unless the loss is specifically excluded or limited under the terms of the Policy.

20. The aforementioned physical damage to Plaintiff's property and the business income loss and other related losses and damages are Covered Losses under the Policy.

21. On March 16, 2020, Plaintiff gave proper notice of the losses and damages by promptly notifying Defendants pursuant to the Policy (Claim No. 334749-GK).

22. On or about March 23, 2020, contrary to the terms and conditions of the policy, Plaintiff's claim was denied as Defendant Nationwide erroneously asserted that any loss resulting from a virus was excluded, as well as losses related to a closure by civil authority were



excluded. This denial was conveyed verbally over the phone and via a denial letter.

23. On March 26, 2020, Plaintiff resubmitted its claim for additional consideration. On or about April 1, 2020, the claim was again erroneously denied contrary to the terms and conditions of the Policy via phone conversation and letter sent via electronic mail.

24. In denying the claim, the adjuster for Nationwide advised that in making the determination of whether the losses were covered he only reviewed the Tennessee Governor's Executive Order (no number was specified), the Nashville Mayor's Executive Order (no number was specified) and guidelines from the Center of Disease Control ("CDC") regarding food contamination (no section or page number was specified). The adjuster acknowledged that the CDC recommended when you purchase food via delivery, you should slide the contents onto a plate and throw away the bag and other conveyances in which the food was delivered.

25. Within the written denial Defendants asserted that there is no direct physical loss or damage to the covered property. Such a position ignores the scientific evidence that the Coronavirus can remain on surfaces and objects for several days, is highly contagious and that medical experts highly recommend routine cleaning and sanitizing of all surfaces.

26. The Defendants further asserted that because no evidence or report of food contamination was provided, coverage was being denied. Defendants assertion is either not in good faith or is a misunderstanding of the terms of the Policy as the Policy covers "suspicion" of contamination of food by employees with a communicable disease, which is part of the reason restaurants and bars were closed by governmental authorities.

27. Defendants additionally relied on an exclusion in the Policy for losses caused by viruses or bacteria. However, the Policy specifically states that such exclusion does not apply to

losses related to food contamination.

28. Upon information and belief, Defendants are intentionally refusing to follow the plain language of the policy and provide Plaintiff's claim fair consideration as they fear, given the persuasive and global effects of the Coronavirus, if Defendants were to pay Plaintiff's claim, Defendants will be exposed to a significant financial loss.

29. Plaintiff would aver that it is entitled to the monetary limits under the Policy or some portion thereof as Plaintiff has suffered losses and damages as a result of one or more Covered Causes of Loss as defined under the Policy and/or one or more Covered Causes of Loss which are not specifically excluded or limited under the Policy.

30. Plaintiff has suffered additional losses and damages given Defendants' failure to properly investigate Plaintiff's claim and timely pay the claim under the terms of the Policy.

#### **COUNT I: DECLARATORY JUDGMENT**

31. The Plaintiff adopts and incorporates the previous paragraphs as if set forth fully herein.

32. Plaintiff seeks a declaratory judgment pursuant to Tenn. Code Ann. § 29-14-101 et seq. as an actual controversy has arisen between the parties given Defendants' refusal to pay any amounts pursuant to the terms and conditions of the Policy.

33. The Policy is a contract of insurance between the parties pursuant to Tenn. Code Ann. § 57-6-102(b). The Plaintiff petitions the Court to determine its rights and remedies under the Policy.

34. Plaintiff seeks a declaratory judgment that the damage to its property and the loss

of business income and other losses and damages from March 16, 2020 forward are covered losses under the Policy and accordingly Plaintiff is entitled to indemnification thereof.

35. Plaintiff further seeks a declaratory judgment that Plaintiff is entitled to payment of the monetary limits set forth in the Policy or some portion thereof.

36. Plaintiff further seek any additional rights or remedies available pursuant to Tenn. Code Ann. § 29-14-101 et seq..

### **COUNT II: BREACH OF CONTRACT**

37. The Plaintiff adopts and incorporates the previous paragraphs as if set forth fully herein.

38. The Policy is a contract of insurance pursuant to Tenn. Code Ann. § 57-6-102(b) and Defendants have breached the language and duties formed under the Policy by denying coverage and failing and refusing to pay benefits due thereunder.

39. Defendants failed to properly and thoroughly investigate the Plaintiff's claim as required under the Policy and by state statute. *See* Tenn. Code Ann. § 56-8-101 et seq..

40. Defendants failed to exercise the skill, care and knowledge required of a licensed insurance carrier with respect to the investigation and handling of Plaintiff's claim.

41. Upon information and belief, Defendants intentional ignored the plain language of the Policy and Plaintiff's request for fair consider as Defendants feared if they paid Plaintiff's claim as the Policy requires, it would suffer a significant financial loss.

42. Defendants actions as set forth herein were in violation of their duty of good faith and fair dealing implied in the language of the Policy or as otherwise may be required under



applicable law.

43. As a direct and proximate result of one or more of the aforementioned acts or omissions of Defendants, the Plaintiff has suffered damages and losses and Plaintiff will continue to incur such losses and injuries and seeks all damages to which it is legally entitled.

### **COUNT III: UNFAIR CLAIMS PRACTICES**

44. The Plaintiff adopts and incorporates the previous paragraphs as if set forth fully herein.

45. Defendant committed unfair claims practices in violation of Tenn. Code Ann. § 56-8-101 through 111.

46. The Defendants' acts and/or omissions regarding Plaintiff's claim were made negligently, recklessly, knowingly and/or willingly.

47. While the foregoing statutes do not provide a private cause of action, Defendants' response to Plaintiff's claim fell below the standard set forth in the aforementioned statute and is further breach of the contract between the parties and/or is the basis for a cause of action under Tennessee law for negligence, negligence *per se* and/or recklessness.

48. As a direct and proximate result of one or more of the aforementioned acts or omission of Defendants, the Plaintiff has suffered damages and losses and Plaintiff will continue to incur such losses and injuries and seeks all damages to which it is legally entitled.

### **COUNT IV: BAD FAITH DENIAL**

49. The Plaintiff adopts and incorporates the previous paragraphs as if set forth fully

herein.

50. The Defendants have not filed for a declaratory action pursuant to Tenn. Code Ann. § 56-7-102(f).

51. If the evidence establishes that Defendants refused to pay for Plaintiff's loss within sixty (60) days of the demand and that Defendants' failure and refusal to pay was not in good faith, Plaintiff will be entitled to recover an amount equal to twenty-five percent (25%) of the liability of the loss pursuant to Tenn. Code Ann. § 56-7-105.

52. Defendants' denial has resulted in additional expense, loss and/or injury to Plaintiff, including attorney's fees and costs to file this action.

53. As a direct and proximate result of one or more of the aforementioned acts or omissions of Defendants, the Plaintiff has suffered damages and losses and Plaintiff will continue to incur such losses and injuries and seeks all damages to which it is legally entitled.

**WHEREFORE, PREMISES CONSIDERED**, the Plaintiff prays that proper process issue and be served upon the Defendants, requiring them to answer the Complaint within the time prescribed by law and demands a jury of twelve (12) and a judgment against the Defendants including:

1. a declaration that Plaintiff's losses and damages are a Covered Loss under the Policy and Plaintiff is accordingly entitled to payment from Defendants and other findings necessary to make Plaintiff whole;

2. an award of an amount to be paid under the Policy to be determined by the Jury, but not to exceed five million dollars (\$5,000,000) or the monetary limits payable under the



Policy;

3. an award of special, consequential and incidental damages in an amount to be determined by the Jury, but not to exceed two hundred and fifty thousand dollars (\$250,000);

4. if applicable, an award in an amount equal to twenty-five percent (25%) of the liability of the loss pursuant to Tenn. Code Ann. § 56-7-105.

5. if applicable, an award of punitive damages in an amount to be determined by the Jury

6. an award of costs, pre and post judgment interest and attorney's fees in an amount to be proven at trial;

7. Any and all other general and equitable relief to which Plaintiff is entitled and which justice may require.

Respectfully submitted,

**CLEMENTS LAW FIRM, PLLC**

/s/ Kirk L. Clements

**KIRK L. CLEMENTS, BPR NO. 20672**

Attorney for Plaintiff

105 Broadway, Ste. 2

Nashville, TN 37201

615-964-8000

615-953-1902 (fax)

kirk@kirkclementsllaw.com

**COMMERCIAL PROPERTY (AMCO)**

FILED 04/09/20 08:28 PM CASE NO. 20C822 Richard R. Rooker, Clerk

42 0000951

ACP 30-2-8529540

INSURED COPY

L7NO N

Named Insured: **NASHVILLE UNDERGROUND**

Address: **105 BROADWAY  
NASHVILLE**

**TN 37201-2109**

★★★★★★★★

**IMPORTANT INSURANCE INFORMATION**

★★★★★★★★

**IMPORTANT NOTICE FOR RENEWAL POLICIES**

In an effort to keep your insurance premium as low as possible, we have streamlined your renewal policy. We have not included printed copies of policy forms and endorsements that have not changed from your expiring policy unless they include variable information that is unique to you. Please refer to your prior policies for printed copies of these forms. If you desire copies, they are available upon request from your agent.

IN 5017 (05-93)

0037 19329

INSURED COPY

ACP CPAA 3028529540

200217974

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**COMMERCIAL PROPERTY STATEMENT OF VALUES**Coinsurance Percentage Applicable is ☐ 90% ☐ 100%Policy Number: **ACP CPAA 3028529540**  
Named Insured: **NASHVILLE UNDERGROUND**Period: Policy From **11/22/19** to **11/22/20**  
Agent: **CHAPPELL SMITH & ASSOCIATES**  
Address: **FRANKLIN TN**

37067

**Policy contains Agreed Value**

The values shown on this Statement of Values reflect the values you have requested or agreed to for each individual item that was included in the Blanket Limit of Insurance shown in the Declarations of your policy.

By your acceptance of this policy in the payment of the premium due, you are acknowledging that the values shown below are correct to the best of your knowledge and belief.

Loc.	Bldg.	Item	Description/Coverage Type	Value	Valuation of Property
1	1	1	<b>BUILDING</b>	<b>\$ 13,000,000</b>	<b>RC</b>
		2	<b>PERSONAL PROPERTY</b>	<b>\$ 3,344,300</b>	<b>RC</b>
		3	<b>BUSINESS INCOME</b>	<b>\$ 5,000,000</b>	

CP-SV 05 15

DIRECT BILL 0037 19329

INSURED COPY

ACP CPAA 3028529540

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FILED 04/09/20 08:28 PM CASE NO. 20C822 Richard R. Rooker, Clerk

AMCO INSURANCE COMPANY  
1100 LOCUST ST DEPT 1100  
DES MOINES, IA 50391-2000

RENEWAL

DECLARATIONS

Policy Number: **ACP CPAA 3028529540** **COMMERCIAL PROPERTY**  
Named Insured: **NASHVILLE UNDERGROUND**  
Mailing Address: **105 BROADWAY  
NASHVILLE  
TN 37201-2109**  
Agent: **CHAPPELL SMITH & ASSOCIATES** **41-26703**  
Address: **FRANKLIN TN 37067**  
Producer: **TODD CHARLES LEE**  
Policy Period: This policy is effective from **11/22/19** to **11/22/20** 12:01 A.M.  
Standard time at the above mailing address.

This policy is subject to the following forms. Forms specific to a certain building or item can be found with the specific building and item information on the following pages.

FORM	DATE	PREM
CP0010	1012	0
CP1270	0996	0
CP7176	0416	0
IN7809	1115	0
IN5017	0593	0

FORM	DATE	PREM
CP0090	0788	0
CP7117	0917	0
IL0017	1198	0
LI0995	0107	0
IL7002	0911	0

FORM	DATE	PREM
CP0140	0706	0
CP7118	0917	0
IL0935	0702	0
CP9993	1090	0

Mortgagee and loss payee information - See schedules CP-DM and CP-DL

Replacement or  
Renewal Number **ACP CPPP 3018529540**

Countersigned \_\_\_\_\_ By \_\_\_\_\_  
Date \_\_\_\_\_ Authorized Representative

Premium for Certified Acts of Terrorism \$ **0.00**

Total Annual Premium \$ **[REDACTED]**

Total Policy Premium \$ **[REDACTED]**

CP-D (10-98)

DIRECT BILL EBL133 19329

INSURED COPY

ACP CPAA 3028529540

200217974

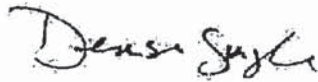
42

0000956



AMCO INSURANCE COMPANY

IN WITNESS WHEREOF the Company has caused this policy to be signed by its president and secretary and countersigned on the declarations page by a duly authorized representative of the company.



SECRETARY



PRESIDENT

SP 00 02 09 16

Page 1 of 1

ACP CPAA 3028529540

INSURED COPY

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EB

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FILED 04/09/20 08:28 PM CASE NO. 20C822 Richard R. Rooker, Clerk

## AMCO INSURANCE COMPANY

## COMMERCIAL PROPERTY SCHEDULE REFERENCE PAGE

Policy Number: ACP CPAA 3028529540

Policy Period: From 11/22/19 To 11/22/20

Named Insured: NASHVILLE UNDERGROUND

Loc. Bld. Item	Address/Description	Limit	Premium
	TOTAL POLICY PREMIUM	\$	[REDACTED]
	POLICY WIDE OPTIONAL COVERAGES		
	PROTECTION PLUS	\$	[REDACTED]
	EQUIPMENT BREAKDOWN	\$	[REDACTED]
1	105 BROADWAY NASHVILLE TN Protection Class: 03		
1	RESTAURANTS-W/ALCOHOL SALES < DISCHARGE FROM SEWER, DRAIN OR SUMP PROPERTY DAMAGE	\$ 250,000	\$ [REDACTED]
1	BUILDING	\$ 13,000,000	\$ [REDACTED]
	GROUP 1		\$ [REDACTED]
	GROUP 2		\$ [REDACTED]
	SPECIAL - CAUSE OF LOSS		\$ [REDACTED]
	EARTHQUAKE		\$ [REDACTED]
2	PERSONAL PROPERTY	\$ 3,344,300	\$ [REDACTED]
	GROUP 1		\$ [REDACTED]
	GROUP 2		\$ [REDACTED]
	SPECIAL - CAUSE OF LOSS		\$ [REDACTED]
	EARTHQUAKE - SUBLIMIT	\$ 2,000,000	\$ [REDACTED]
3	BUSINESS INCOME INCLUDING	\$ 5,000,000	\$ [REDACTED]
	GROUP 1		\$ [REDACTED]
	GROUP 2		\$ [REDACTED]
	SPECIAL - CAUSE OF LOSS		\$ [REDACTED]
	EARTHQUAKE - SUBLIMIT	\$ 1,500,000	\$ [REDACTED]
	DISCHARGE TIME ELEMENT	\$ 250,000	\$ [REDACTED]
	FOOD CONTAMINATION	\$ 50,000	\$ [REDACTED]
	ADDITIONAL ADVERTISING EXPENSE	\$ 100,000	\$ [REDACTED]
2	SIGN		
1	BUILDING	\$ 40,000	\$ [REDACTED]
	GROUP 1		\$ [REDACTED]
	GROUP 2		\$ [REDACTED]
	SPECIAL - CAUSE OF LOSS		\$ [REDACTED]

Richard R. Ricketts, Clerk

FILED 04/09/20 08:28 PM CASE NO. 20C822

AMCO INSURANCE COMPANY

COMMERCIAL PROPERTY SCHEDULE

Policy Number: ACP CPAA 3028529540

Policy Period: From 11/22/19 To 11/22/20

Named Insured: NASHVILLE UNDERGROUND

Policy Wide Declaration Coverage

Protection Plus Coverage-RESTAURANT

PLATINUM Premium \$

\*\*\*\* Premise No 01 \*\*\*\* Total Premium \$

Address: 105 BROADWAY  
City: NASHVILLE

State: TN

Zip Code: 37201-2109

Description: RESTAURANT/BAR

Optional Coverage: Flood Coverage - Limit: \$ 3,000,000 Premium \$  
Flood Coverage Aggregate Limit: \$ 3,000,000

FORM	DATE	PREM	FORM	DATE	PREM	FORM	DATE	PREM
CP7104	0707	0	IL0250	0908	0	IL0952	0115	0
CP7281	0115	0						

\*\* Building No 01 \*\* Total Premium \$

Burglary and Robbery Protective Safeguards  
BR-1 Automatic Burglary Alarm - to a Central Station

Protective Safeguards  
P-1 Automatic Sprinkler System  
P-2 Automatic Fire Alarm - to a Central Station  
P-5 Automatic Commercial Cooking And Extinguishing System Clause  
Discharge From Sewer, Drain Or Sump  
Property Damage: Limit \$ 250,000 Premium \$  
Rental Property

Occupancy Group - SERVICE  
Description: RESTAURANTS-W/ALCOHOL SALES <  
Construction Type: FIRE RESISTIVE

FORM	DATE	PREM	FORM	DATE	PREM	FORM	DATE	PREM
CP1034	1012	0	CP1038	1012	0	CP7301	0917	0
CP7302	0917	0	IN7854	0917	0			

Coverages Provided

CP-DS (10-89)

0037 19329

INSURED COPY

ACP CPAA 3028529540

200217974

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## AMCO INSURANCE COMPANY

## COMMERCIAL PROPERTY SCHEDULE

Policy Number: ACP CCAA 3028529540

Policy Period: From 11/22/19 To 11/22/20

Named Insured: NASHVILLE UNDERGROUND

Item	Coverage	Limit of Insurance	Causes of Loss Form	Coinsurance	Deductible	Premium
01	BUILDING	\$ 13,000,000	SPECIAL	100%	2500	<del>2,710.00</del>

Description: RESTAURANT

## Optional Coverages:

Earthquake Coverage - 10% Deductible

Replacement Cost

Agreed Value

Expiration Date: 11/22/20

Amount 13,000,000

Inflation Guard 4%

Flood coverage - deductible \$ 25,000

FORM	DATE	PREM	FORM	DATE	PREM	FORM	DATE	PREM
CP1030	1012	0	CP1040	1012	0			

Item	Coverage	Limit of Insurance	Causes of Loss Form	Coinsurance	Deductible	Premium
02	PERS PROP	\$ 3,344,300	SPECIAL	100%	2500	<del>1,110.00</del>

Description: RESTAURANT FF&amp;E

## Optional Coverages:

Earthquake - Sublimit - \$2,000,000 - 10% Deductible

Replacement Cost

Agreed Value

Expiration Date: 11/22/20

Amount 3,344,300

Flood coverage - deductible \$ 25,000

FORM	DATE	PREM	FORM	DATE	PREM	FORM	DATE	PREM
CP1030	1012	0	CP1218	1012	0	CP1045	1012	0

Item	Coverage	Limit of Insurance	Causes of Loss Form	Coinsurance	Deductible	Premium
03	BUS INCOME	\$ 5,000,000	SPECIAL	125%	72 HR	<del>1,110.00</del>

Description: BUSINESS INCOME WITH EXTRA EXPENSE

## Optional Coverages:

Business Income Including Rental Value

Earthquake - Sublimit - \$1,500,000 - 0% Deductible

Flood coverage - deductible \$ 25,000

Discharge Time Element: Limit \$ 250,000

Food Contamination (Business Interruption And Extra Expense)

Food Contamination Limit \$ 50,000

Deductible 24HR

Additional Advertising Expense Limit \$ 100,000

Extended Period of Indemnity 365 Days

Agreed Value

Expiration Date: 11/22/20

Amount 5,000,000

FORM	DATE	PREM	FORM	DATE	PREM	FORM	DATE	PREM
CP0030	1012	0	CP1030	1012	0	CP1038	1012	0
CP1505	1012	0	CP1045	1012	0			

CP-DS (10-89)

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AMCO INSURANCE COMPANY

COMMERCIAL PROPERTY SCHEDULE

Policy Number: ACP CPAA 3028529540

Policy Period: From 11/22/19 To 11/22/20

Named Insured: NASHVILLE UNDERGROUND

**\*\* Building No 02 \*\* Total Premium \$ ~~1,250.00~~**

Occupancy Group - MERCANTILE  
Description: SIGN  
Construction Type: NON-COMBUSTIBLE

FORM	DATE	PREM	FORM	DATE	PREM	FORM	DATE	PREM
CP1440	0607	0						

Coverages Provided

Item	Coverage	Limit of Insurance	Causes of Loss Form	Coinsurance	Deductible	Premium
01	BUILDING	\$ 40,000	SPECIAL	100%	2500	<del>1,250.00</del>

Description: SIGN

Optional Coverages:

Replacement Cost

Flood coverage - deductible \$ 25,000

FORM	DATE	PREM	FORM	DATE	PREM	FORM	DATE	PREM
CP1030	1012	0						

CP-DS (10-89)

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AMCO INSURANCE COMPANY

COMMERCIAL PROPERTY FORMS AND ENDORSEMENTS

Policy Number: ACP CPAA 3028529540

Policy Period: From 11/22/19 To 11/22/20

Named Insured: NASHVILLE UNDERGROUND

Form	Date	Title
CP0010	1012	BUILDING AND PERSONAL PROPERTY COVERAGE FORM
CP0030	1012	BUSINESS INCOME (AND EXTRA EXPENSE) COVERAGE FORM
CP0090	0788	COMMERCIAL PROPERTY CONDITIONS
CP0140	0706	EXCLUSION OF LOSS DUE TO VIRUS OR BACTERIA
CP1030	1012	CAUSES OF LOSS - SPECIAL FORM
CP1034	1012	EXCLUSION OF LOSS DUE TO BY-PRODUCTS OF PRODUCTION OR PROCESSING OPERATIONS
CP1038	1012	DISCHARGE FROM SEWER, DRAIN OR SUMP (NOT FLOOD-RELATED)
CP1040	1012	EARTHQUAKE AND VOLCANIC ERUPTION ENDORSEMENT
CP1045	1012	EARTHQUAKE AND VOLCANIC ERUPTION ENDORSEMENT (SUB-LIMIT FORM)
CP1218	1012	LOSS PAYABLE PROVISIONS
CP1270	0996	JOINT OR DISPUTED LOSS AGREEMENT
CP1440	0607	OUTDOOR SIGNS
CP1505	1012	FOOD CONTAMINATION (BUSINESS INTERRUPTION AND EXTRA EXPENSE)
CP7104	0707	AMENDATORY ENDORSEMENT
CP7117	0917	EQUIPMENT BREAKDOWN COVERAGE
CP7118	0917	EQUIPMENT BREAKDOWN COVERAGE SCHEDULE
CP7176	0416	RESTAURANT PLATINUM PROTECTION PLUS ENDORSEMENT
CP7281	0115	FLOOD COVERAGE
CP7301	0917	PROTECTIVE SAFEGUARDS
CP7302	0917	BURGLARY AND ROBBERY PROTECTIVE SAFEGUARDS
CP9993	1090	TENTATIVE RATE
IL0017	1198	COMMON POLICY CONDITIONS
IL0250	0908	TENNESSEE CHANGES - CANCELLATION AND NONRENEWAL
IL0935	0702	EXCLUSION OF CERTAIN COMPUTER-RELATED LOSSES
IL0952	0115	CAP ON LOSSES FROM CERTIFIED ACTS OF TERRORISM
IL7002	0911	ADVANCE NOTICE OF CANCELLATION, NONRENEWAL OR COVERAGE REDUCTION OR RESTRICTION
IN5017	0593	IMPORTANT NOTICE FOR RENEWAL POLICIES
IN7809	1115	DATA BREACH & IDENTITY RECOVERY SERVICES
IN7854	0917	PROTECTIVE SAFEGUARD ENDORSEMENT ADVISORY NOTICE TO POLICYHOLDERS
LI0995	0107	CONDITIONAL EXCLUSION OF TERRORISM

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ACP CPAA 3028529540

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## BUILDING AND PERSONAL PROPERTY COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we", "us" and "our" refer to the Company providing this insurance.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section H., Definitions.

### A. Coverage

We will pay for direct physical loss of or damage to Covered Property at the premises described in the Declarations caused by or resulting from any Covered Cause of Loss.

#### 1. Covered Property

Covered Property, as used in this Coverage Part, means the type of property described in this section, A.1., and limited in A.2., Property Not Covered, if a Limit of Insurance is shown in the Declarations for that type of property.

##### a. Building, meaning the building or structure described in the Declarations, including:

- (1) Completed additions;
- (2) Fixtures, including outdoor fixtures;
- (3) Permanently installed:
  - (a) Machinery and
  - (b) Equipment;
- (4) Personal property owned by you that is used to maintain or service the building or structure or its premises, including:
  - (a) Fire-extinguishing equipment;
  - (b) Outdoor furniture;
  - (c) Floor coverings; and
  - (d) Appliances used for refrigerating, ventilating, cooking, dishwashing or laundering;
- (5) If not covered by other insurance:
  - (a) Additions under construction, alterations and repairs to the building or structure;

- (b) Materials, equipment, supplies and temporary structures, on or within 100 feet of the described premises, used for making additions, alterations or repairs to the building or structure.

##### b. Your Business Personal Property located in or on the building described in the Declarations or in the open (or in a vehicle) within 100 feet of the described premises, consisting of the following unless otherwise specified in the Declarations or on the Your Business Personal Property – Separation Of Coverage form:

- (1) Furniture and fixtures;
- (2) Machinery and equipment;
- (3) "Stock";
- (4) All other personal property owned by you and used in your business;
- (5) Labor, materials or services furnished or arranged by you on personal property of others;
- (6) Your use interest as tenant in improvements and betterments. Improvements and betterments are fixtures, alterations, installations or additions:
  - (a) Made a part of the building or structure you occupy but do not own; and
  - (b) You acquired or made at your expense but cannot legally remove;
- (7) Leased personal property for which you have a contractual responsibility to insure, unless otherwise provided for under Personal Property Of Others.



**c. Personal Property Of Others** that is:

- (1) In your care, custody or control; and
- (2) Located in or on the building described in the Declarations or in the open (or in a vehicle) within 100 feet of the described premises.

However, our payment for loss of or damage to personal property of others will only be for the account of the owner of the property.

**2. Property Not Covered**

Covered Property does not include:

- a. Accounts, bills, currency, food stamps or other evidences of debt, money, notes or securities. Lottery tickets held for sale are not securities;
- b. Animals, unless owned by others and boarded by you, or if owned by you, only as "stock" while inside of buildings;
- c. Automobiles held for sale;
- d. Bridges, roadways, walks, patios or other paved surfaces;
- e. Contraband, or property in the course of illegal transportation or trade;
- f. The cost of excavations, grading, backfilling or filling;
- g. Foundations of buildings, structures, machinery or boilers if their foundations are below:
  - (1) The lowest basement floor; or
  - (2) The surface of the ground, if there is no basement;
- h. Land (including land on which the property is located), water, growing crops or lawns;
- i. Personal property while airborne or waterborne;
- j. Bulkheads, pilings, piers, wharves or docks;
- k. Property that is covered under another coverage form of this or any other policy in which it is more specifically described, except for the excess of the amount due (whether you can collect on it or not) from that other insurance;
- l. Retaining walls that are not part of a building;
- m. Underground pipes, flues or drains;
- n. Electronic data, except as provided under the Additional Coverage, Electronic Data. Electronic data means information, facts or computer programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), on hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other repositories of computer software which are used with electronically controlled equipment. The term computer programs, referred to in the foregoing description of electronic data, means a set of related electronic instructions which direct the operations and functions of a computer or device connected to it, which enable the computer or device to receive, process, store, retrieve or send data. This paragraph, n., does not apply to your "stock" of prepackaged software;
- o. The cost to replace or restore the information on valuable papers and records, including those which exist as electronic data. Valuable papers and records include but are not limited to proprietary information, books of account, deeds, manuscripts, abstracts, drawings and card index systems. Refer to the Coverage Extension for Valuable Papers And Records (Other Than Electronic Data) for limited coverage for valuable papers and records other than those which exist as electronic data;
- p. Vehicles or self-propelled machines (including aircraft or watercraft) that:
  - (1) Are licensed for use on public roads; or
  - (2) Are operated principally away from the described premises.

This paragraph does not apply to:

  - (a) Vehicles or self-propelled machines or autos you manufacture, process or warehouse;
  - (b) Vehicles or self-propelled machines, other than autos, you hold for sale;
  - (c) Rowboats or canoes out of water at the described premises; or
  - (d) Trailers, but only to the extent provided for in the Coverage Extension for Non-owned Detached Trailers;



q. The following property while outside of buildings:

- (1) Grain, hay, straw or other crops;
- (2) Fences, radio or television antennas (including satellite dishes) and their lead-in wiring, masts or towers, trees, shrubs or plants (other than "stock" of trees, shrubs or plants), all except as provided in the Coverage Extensions.

### 3. Covered Causes Of Loss

See applicable Causes Of Loss Form as shown in the Declarations.

### 4. Additional Coverages

#### a. Debris Removal

- (1) Subject to Paragraphs (3) and (4), we will pay your expense to remove debris of Covered Property caused by or resulting from a Covered Cause of Loss that occurs during the policy period. The expenses will be paid only if they are reported to us in writing within 180 days of the date of direct physical loss or damage.
- (2) Debris Removal does not apply to costs to:
  - (a) Extract "pollutants" from land or water; or
  - (b) Remove, restore or replace polluted land or water.
- (3) Subject to the exceptions in Paragraph (4), the following provisions apply:
  - (a) The most we will pay for the total of direct physical loss or damage plus debris removal expense is the Limit of Insurance applicable to the Covered Property that has sustained loss or damage.
  - (b) Subject to (a) above, the amount we will pay for debris removal expense is limited to 25% of the sum of the deductible plus the amount that we pay for direct physical loss or damage to the Covered Property that has sustained loss or damage.
- (4) We will pay up to an additional \$10,000 for debris removal expense, for each location, in any one occurrence of physical loss or damage to Covered Property, if one or both of the following circumstances apply:

(a) The total of the actual debris removal expense plus the amount we pay for direct physical loss or damage exceeds the Limit of Insurance on the Covered Property that has sustained loss or damage.

(b) The actual debris removal expense exceeds 25% of the sum of the deductible plus the amount that we pay for direct physical loss or damage to the Covered Property that has sustained loss or damage.

Therefore, if (4)(a) and/or (4)(b) apply, our total payment for direct physical loss or damage and debris removal expense may reach but will never exceed the Limit of Insurance on the Covered Property that has sustained loss or damage, plus \$10,000.

#### (5) Examples

The following examples assume that there is no Coinsurance penalty.

##### EXAMPLE #1

Limit of Insurance:	\$ 90,000
Amount of Deductible:	\$ 500
Amount of Loss:	\$ 50,000
Amount of Loss Payable:	\$ 49,500
	(\$50,000 - \$500)
Debris Removal Expense:	\$ 10,000
Debris Removal Expense Payable:	\$ 10,000
	(\$10,000 is 20% of \$50,000.)

The debris removal expense is less than 25% of the sum of the loss payable plus the deductible. The sum of the loss payable and the debris removal expense (\$49,500 + \$10,000 = \$59,500) is less than the Limit of Insurance. Therefore the full amount of debris removal expense is payable in accordance with the terms of Paragraph (3).

##### EXAMPLE #2

Limit of Insurance:	\$ 90,000
Amount of Deductible:	\$ 500
Amount of Loss:	\$ 80,000
Amount of Loss Payable:	\$ 79,500
	(\$80,000 - \$500)
Debris Removal Expense:	\$ 30,000
Debris Removal Expense Payable	
Basic Amount:	\$ 10,500
Additional Amount:	\$ 10,000



The basic amount payable for debris removal expense under the terms of Paragraph (3) is calculated as follows: \$80,000 (\$79,500 + \$500) x .25 = \$20,000; capped at \$10,500. The cap applies because the sum of the loss payable (\$79,500) and the basic amount payable for debris removal expense (\$10,500) cannot exceed the Limit of Insurance (\$90,000).

The additional amount payable for debris removal expense is provided in accordance with the terms of Paragraph (4), because the debris removal expense (\$30,000) exceeds 25% of the loss payable plus the deductible (\$30,000 is 37.5% of \$80,000), and because the sum of the loss payable and debris removal expense (\$79,500 + \$30,000 = \$109,500) would exceed the Limit of Insurance (\$90,000). The additional amount of covered debris removal expense is \$10,000, the maximum payable under Paragraph (4). Thus the total payable for debris removal expense in this example is \$20,500; \$9,500 of the debris removal expense is not covered.

**b. Preservation Of Property**

If it is necessary to move Covered Property from the described premises to preserve it from loss or damage by a Covered Cause of Loss, we will pay for any direct physical loss or damage to that property:

- (1) While it is being moved or while temporarily stored at another location; and
- (2) Only if the loss or damage occurs within 30 days after the property is first moved.

**c. Fire Department Service Charge**

When the fire department is called to save or protect Covered Property from a Covered Cause of Loss, we will pay up to \$1,000, unless a higher limit is shown in the Declarations, for your liability for fire department service charges:

- (1) Assumed by contract or agreement prior to loss; or
- (2) Required by local ordinance.

No Deductible applies to this Additional Coverage.

**d. Pollutant Clean-up And Removal**

We will pay your expense to extract "pollutants" from land or water at the described premises if the discharge, dispersal, seepage, migration, release or escape of the "pollutants" is caused by or results from a Covered Cause of Loss that occurs during the policy period. The expenses will be paid only if they are reported to us in writing within 180 days of the date on which the Covered Cause of Loss occurs.

This Additional Coverage does not apply to costs to test for, monitor or assess the existence, concentration or effects of "pollutants". But we will pay for testing which is performed in the course of extracting the "pollutants" from the land or water.

The most we will pay under this Additional Coverage for each described premises is \$10,000 for the sum of all covered expenses arising out of Covered Causes of Loss occurring during each separate 12-month period of this policy.

**e. Increased Cost Of Construction**

- (1) This Additional Coverage applies only to buildings to which the Replacement Cost Optional Coverage applies.
- (2) In the event of damage by a Covered Cause of Loss to a building that is Covered Property, we will pay the increased costs incurred to comply with enforcement of an ordinance or law in the course of repair, rebuilding or replacement of damaged parts of that property, subject to the limitations stated in e.(3) through e.(9) of this Additional Coverage.
- (3) The ordinance or law referred to in e.(2) of this Additional Coverage is an ordinance or law that regulates the construction or repair of buildings or establishes zoning or land use requirements at the described premises, and is in force at the time of loss.



(4) Under this Additional Coverage, we will not pay any costs due to an ordinance or law that:

(a) You were required to comply with before the loss, even when the building was undamaged; and

(b) You failed to comply with.

(5) Under this Additional Coverage, we will not pay for:

(a) The enforcement of any ordinance or law which requires demolition, repair, replacement, reconstruction, remodeling or remediation of property due to contamination by "pollutants" or due to the presence, growth, proliferation, spread or any activity of "fungus", wet or dry rot or bacteria; or

(b) Any costs associated with the enforcement of an ordinance or law which requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants", "fungus", wet or dry rot or bacteria.

(6) The most we will pay under this Additional Coverage, for each described building insured under this Coverage Form, is \$10,000 or 5% of the Limit of Insurance applicable to that building, whichever is less. If a damaged building is covered under a blanket Limit of Insurance which applies to more than one building or item of property, then the most we will pay under this Additional Coverage, for that damaged building, is the lesser of: \$10,000 or 5% times the value of the damaged building as of the time of loss times the applicable Coinsurance percentage.

The amount payable under this Additional Coverage is additional insurance.

(7) With respect to this Additional Coverage:

(a) We will not pay for the Increased Cost of Construction:

(i) Until the property is actually repaired or replaced, at the same or another premises; and

(ii) Unless the repairs or replacement are made as soon as reasonably possible after the loss or damage, not to exceed two years. We may extend this period in writing during the two years.

(b) If the building is repaired or replaced at the same premises, or if you elect to rebuild at another premises, the most we will pay for the Increased Cost of Construction, subject to the provisions of e.(6) of this Additional Coverage, is the increased cost of construction at the same premises.

(c) If the ordinance or law requires relocation to another premises, the most we will pay for the Increased Cost of Construction, subject to the provisions of e.(6) of this Additional Coverage, is the increased cost of construction at the new premises.

(8) This Additional Coverage is not subject to the terms of the Ordinance Or Law Exclusion, to the extent that such Exclusion would conflict with the provisions of this Additional Coverage.

(9) The costs addressed in the Loss Payment and Valuation Conditions, and the Replacement Cost Optional Coverage, in this Coverage Form, do not include the increased cost attributable to enforcement of an ordinance or law. The amount payable under this Additional Coverage, as stated in e.(6) of this Additional Coverage, is not subject to such limitation.

#### f. Electronic Data

(1) Under this Additional Coverage, electronic data has the meaning described under Property Not Covered, Electronic Data.

(2) Subject to the provisions of this Additional Coverage, we will pay for the cost to replace or restore electronic data which has been destroyed or corrupted by a Covered Cause of Loss. To the extent that electronic data is not replaced or restored, the loss will be valued at the cost of replacement of the media on which the electronic data was stored, with blank media of substantially identical type.



- (3) The Covered Causes of Loss applicable to Your Business Personal Property apply to this Additional Coverage, Electronic Data, subject to the following:

- (a) If the Causes Of Loss – Special Form applies, coverage under this Additional Coverage, Electronic Data, is limited to the "specified causes of loss" as defined in that form, and Collapse as set forth in that form.
- (b) If the Causes Of Loss – Broad Form applies, coverage under this Additional Coverage, Electronic Data, includes Collapse as set forth in that form.
- (c) If the Causes Of Loss Form is endorsed to add a Covered Cause of Loss, the additional Covered Cause of Loss does not apply to the coverage provided under this Additional Coverage, Electronic Data.
- (d) The Covered Causes of Loss include a virus, harmful code or similar instruction introduced into or enacted on a computer system (including electronic data) or a network to which it is connected, designed to damage or destroy any part of the system or disrupt its normal operation. But there is no coverage for loss or damage caused by or resulting from manipulation of a computer system (including electronic data) by any employee, including a temporary or leased employee, or by an entity retained by you or for you to inspect, design, install, modify, maintain, repair or replace that system.

- (4) The most we will pay under this Additional Coverage, Electronic Data, is \$2,500 for all loss or damage sustained in any one policy year, regardless of the number of occurrences of loss or damage or the number of premises, locations or computer systems involved. If loss payment on the first occurrence does not exhaust this amount, then the balance is available for subsequent loss or damage sustained in but not after that policy year. With respect to an occurrence which begins in one policy year and continues or results in additional loss or damage in a subsequent policy year(s), all loss or damage is deemed to be sustained in the policy year in which the occurrence began.

## 5. Coverage Extensions

Except as otherwise provided, the following Extensions apply to property located in or on the building described in the Declarations or in the open (or in a vehicle) within 100 feet of the described premises.

If a Coinsurance percentage of 80% or more, or a Value Reporting period symbol, is shown in the Declarations, you may extend the insurance provided by this Coverage Part as follows:

### a. Newly Acquired Or Constructed Property

#### (1) Buildings

If this policy covers Building, you may extend that insurance to apply to:

- (a) Your new buildings while being built on the described premises; and
- (b) Buildings you acquire at locations, other than the described premises, intended for:
  - (i) Similar use as the building described in the Declarations; or
  - (ii) Use as a warehouse.

The most we will pay for loss or damage under this Extension is \$250,000 at each building.

#### (2) Your Business Personal Property

- (a) If this policy covers Your Business Personal Property, you may extend that insurance to apply to:
  - (i) Business personal property, including such property that you newly acquire, at any location you acquire other than at fairs, trade shows or exhibitions;
  - (ii) Business personal property, including such property that you newly acquire, located at your newly constructed or acquired buildings at the location described in the Declarations; or
  - (iii) Business personal property that you newly acquire, located at the described premises.

The most we will pay for loss or damage under this Extension is \$100,000 at each building.



(b) This Extension does not apply to:

- (i) Personal property of others that is temporarily in your possession in the course of installing or performing work on such property; or
- (ii) Personal property of others that is temporarily in your possession in the course of your manufacturing or wholesaling activities.

**(3) Period Of Coverage**

With respect to insurance on or at each newly acquired or constructed property, coverage will end when any of the following first occurs:

- (a) This policy expires;
- (b) 30 days expire after you acquire the property or begin construction of that part of the building that would qualify as covered property; or
- (c) You report values to us.

We will charge you additional premium for values reported from the date you acquire the property or begin construction of that part of the building that would qualify as covered property.

**b. Personal Effects And Property Of Others**

You may extend the insurance that applies to Your Business Personal Property to apply to:

- (1) Personal effects owned by you, your officers, your partners or members, your managers or your employees. This Extension does not apply to loss or damage by theft.
- (2) Personal property of others in your care, custody or control.

The most we will pay for loss or damage under this Extension is \$2,500 at each described premises. Our payment for loss of or damage to personal property of others will only be for the account of the owner of the property.

**c. Valuable Papers And Records (Other Than Electronic Data)**

- (1) You may extend the insurance that applies to Your Business Personal Property to apply to the cost to replace or restore the lost information on valuable papers and records for which duplicates do not exist. But this Extension does not apply to valuable papers and records which exist as electronic data. Electronic data has the meaning described under Property Not Covered, Electronic Data.
- (2) If the Causes Of Loss – Special Form applies, coverage under this Extension is limited to the "specified causes of loss" as defined in that form, and Collapse as set forth in that form.
- (3) If the Causes Of Loss – Broad Form applies, coverage under this Extension includes Collapse as set forth in that form.
- (4) Under this Extension, the most we will pay to replace or restore the lost information is \$2,500 at each described premises, unless a higher limit is shown in the Declarations. Such amount is additional insurance. We will also pay for the cost of blank material for reproducing the records (whether or not duplicates exist), and (when there is a duplicate) for the cost of labor to transcribe or copy the records. The costs of blank material and labor are subject to the applicable Limit of Insurance on Your Business Personal Property and therefore coverage of such costs is not additional insurance.

**d. Property Off-premises**

- (1) You may extend the insurance provided by this Coverage Form to apply to your Covered Property while it is away from the described premises, if it is:
  - (a) Temporarily at a location you do not own, lease or operate;
  - (b) In storage at a location you lease, provided the lease was executed after the beginning of the current policy term; or
  - (c) At any fair, trade show or exhibition.



- (2) This Extension does not apply to property:

- (a) In or on a vehicle; or
- (b) In the care, custody or control of your salespersons, unless the property is in such care, custody or control at a fair, trade show or exhibition.

- (3) The most we will pay for loss or damage under this Extension is \$10,000.

**e. Outdoor Property**

You may extend the insurance provided by this Coverage Form to apply to your outdoor fences, radio and television antennas (including satellite dishes), trees, shrubs and plants (other than "stock" of trees, shrubs or plants), including debris removal expense, caused by or resulting from any of the following causes of loss if they are Covered Causes of Loss:

- (1) Fire;
- (2) Lightning;
- (3) Explosion;
- (4) Riot or Civil Commotion; or
- (5) Aircraft.

The most we will pay for loss or damage under this Extension is \$1,000, but not more than \$250 for any one tree, shrub or plant. These limits apply to any one occurrence, regardless of the types or number of items lost or damaged in that occurrence.

**f. Non-owned Detached Trailers**

- (1) You may extend the insurance that applies to Your Business Personal Property to apply to loss or damage to trailers that you do not own, provided that:
  - (a) The trailer is used in your business;
  - (b) The trailer is in your care, custody or control at the premises described in the Declarations; and
  - (c) You have a contractual responsibility to pay for loss or damage to the trailer.

- (2) We will not pay for any loss or damage that occurs:

- (a) While the trailer is attached to any motor vehicle or motorized conveyance, whether or not the motor vehicle or motorized conveyance is in motion;
- (b) During hitching or unhitching operations, or when a trailer becomes accidentally unhitched from a motor vehicle or motorized conveyance.

- (3) The most we will pay for loss or damage under this Extension is \$5,000, unless a higher limit is shown in the Declarations.

- (4) This insurance is excess over the amount due (whether you can collect on it or not) from any other insurance covering such property.

Each of these Extensions is additional insurance unless otherwise indicated. The Additional Condition, Coinsurance, does not apply to these Extensions.

**B. Exclusions And Limitations**

See applicable Causes Of Loss Form as shown in the Declarations.

**C. Limits Of Insurance**

The most we will pay for loss or damage in any one occurrence is the applicable Limit of Insurance shown in the Declarations.

The most we will pay for loss or damage to outdoor signs, whether or not the sign is attached to a building, is \$2,500 per sign in any one occurrence.

The amounts of insurance stated in the following Additional Coverages apply in accordance with the terms of such coverages and are separate from the Limit(s) of Insurance shown in the Declarations for any other coverage:

- 1. Fire Department Service Charge;
- 2. Pollutant Clean-up And Removal;
- 3. Increased Cost Of Construction; and
- 4. Electronic Data.

Payments under the Preservation Of Property Additional Coverage will not increase the applicable Limit of Insurance.

**D. Deductible**

In any one occurrence of loss or damage (hereinafter referred to as loss), we will first reduce the amount of loss if required by the Coinsurance Condition or the Agreed Value Optional Coverage. If the adjusted amount of loss is less than or equal to the Deductible, we will not pay for that loss. If the adjusted amount of loss exceeds the Deductible, we will then subtract the Deductible from the adjusted amount of loss, and will pay the resulting amount or the Limit of Insurance, whichever is less.

When the occurrence involves loss to more than one item of Covered Property and separate Limits of Insurance apply, the losses will not be combined in determining application of the Deductible. But the Deductible will be applied only once per occurrence.

**EXAMPLE #1**

(This example assumes there is no Coinsurance penalty.)

Deductible:	\$ 250
Limit of Insurance – Building #1:	\$ 60,000
Limit of Insurance – Building #2:	\$ 80,000
Loss to Building #1:	\$ 60,100
Loss to Building #2:	\$ 90,000

The amount of loss to Building #1 (\$60,100) is less than the sum (\$60,250) of the Limit of Insurance applicable to Building #1 plus the Deductible.

The Deductible will be subtracted from the amount of loss in calculating the loss payable for Building #1:

$$\begin{array}{r} \$ 60,100 \\ - \quad 250 \\ \hline \end{array}$$

\$ 59,850 Loss Payable – Building #1

The Deductible applies once per occurrence and therefore is not subtracted in determining the amount of loss payable for Building #2. Loss payable for Building #2 is the Limit of Insurance of \$80,000.

Total amount of loss payable:

$$\$59,850 + \$80,000 = \$139,850$$

**EXAMPLE #2**

(This example, too, assumes there is no Coinsurance penalty.)

The Deductible and Limits of Insurance are the same as those in Example #1.

Loss to Building #1:	\$ 70,000
(Exceeds Limit of Insurance plus Deductible)	
Loss to Building #2:	\$ 90,000
(Exceeds Limit of Insurance plus Deductible)	
Loss Payable – Building #1:	\$ 60,000
(Limit of Insurance)	
Loss Payable – Building #2:	\$ 80,000
(Limit of Insurance)	
Total amount of loss payable:	\$ 140,000

**E. Loss Conditions**

The following conditions apply in addition to the Common Policy Conditions and the Commercial Property Conditions.

**1. Abandonment**

There can be no abandonment of any property to us.

**2. Appraisal**

If we and you disagree on the value of the property or the amount of loss, either may make written demand for an appraisal of the loss. In this event, each party will select a competent and impartial appraiser. The two appraisers will select an umpire. If they cannot agree, either may request that selection be made by a judge of a court having jurisdiction. The appraisers will state separately the value of the property and amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

- Pay its chosen appraiser; and
- Bear the other expenses of the appraisal and umpire equally.

If there is an appraisal, we will still retain our right to deny the claim.



**3. Duties In The Event Of Loss Or Damage**

- a. You must see that the following are done in the event of loss or damage to Covered Property:
- (1) Notify the police if a law may have been broken.
  - (2) Give us prompt notice of the loss or damage. Include a description of the property involved.
  - (3) As soon as possible, give us a description of how, when and where the loss or damage occurred.
  - (4) Take all reasonable steps to protect the Covered Property from further damage, and keep a record of your expenses necessary to protect the Covered Property, for consideration in the settlement of the claim. This will not increase the Limit of Insurance. However, we will not pay for any subsequent loss or damage resulting from a cause of loss that is not a Covered Cause of Loss. Also, if feasible, set the damaged property aside and in the best possible order for examination.
  - (5) At our request, give us complete inventories of the damaged and undamaged property. Include quantities, costs, values and amount of loss claimed.
  - (6) As often as may be reasonably required, permit us to inspect the property proving the loss or damage and examine your books and records.  
Also permit us to take samples of damaged and undamaged property for inspection, testing and analysis, and permit us to make copies from your books and records.
  - (7) Send us a signed, sworn proof of loss containing the information we request to investigate the claim. You must do this within 60 days after our request. We will supply you with the necessary forms.
  - (8) Cooperate with us in the investigation or settlement of the claim.
- b. We may examine any insured under oath, while not in the presence of any other insured and at such times as may be reasonably required, about any matter relating to this insurance or the claim, including an insured's books and records. In the event of an examination, an insured's answers must be signed.

**4. Loss Payment**

- a. In the event of loss or damage covered by this Coverage Form, at our option, we will either:
- (1) Pay the value of lost or damaged property;
  - (2) Pay the cost of repairing or replacing the lost or damaged property, subject to b. below;
  - (3) Take all or any part of the property at an agreed or appraised value; or
  - (4) Repair, rebuild or replace the property with other property of like kind and quality, subject to b. below.
- We will determine the value of lost or damaged property, or the cost of its repair or replacement, in accordance with the applicable terms of the Valuation Condition in this Coverage Form or any applicable provision which amends or supersedes the Valuation Condition.
- b. The cost to repair, rebuild or replace does not include the increased cost attributable to enforcement of any ordinance or law regulating the construction, use or repair of any property.
  - c. We will give notice of our intentions within 30 days after we receive the sworn proof of loss.
  - d. We will not pay you more than your financial interest in the Covered Property.
  - e. We may adjust losses with the owners of lost or damaged property if other than you. If we pay the owners, such payments will satisfy your claims against us for the owners' property. We will not pay the owners more than their financial interest in the Covered Property.
  - f. We may elect to defend you against suits arising from claims of owners of property. We will do this at our expense.
  - g. We will pay for covered loss or damage within 30 days after we receive the sworn proof of loss, if you have complied with all of the terms of this Coverage Part and:
    - (1) We have reached agreement with you on the amount of loss; or
    - (2) An appraisal award has been made.



- h. A party wall is a wall that separates and is common to adjoining buildings that are owned by different parties. In settling covered losses involving a party wall, we will pay a proportion of the loss to the party wall based on your interest in the wall in proportion to the interest of the owner of the adjoining building. However, if you elect to repair or replace your building and the owner of the adjoining building elects not to repair or replace that building, we will pay you the full value of the loss to the party wall, subject to all applicable policy provisions including Limits of Insurance, the Valuation and Coinsurance Conditions and all other provisions of this Loss Payment Condition. Our payment under the provisions of this paragraph does not alter any right of subrogation we may have against any entity, including the owner or insurer of the adjoining building, and does not alter the terms of the Transfer Of Rights Of Recovery Against Others To Us Condition in this policy.

#### 5. Recovered Property

If either you or we recover any property after loss settlement, that party must give the other prompt notice. At your option, the property will be returned to you. You must then return to us the amount we paid to you for the property. We will pay recovery expenses and the expenses to repair the recovered property, subject to the Limit of Insurance.

#### 6. Vacancy

##### a. Description Of Terms

- (1) As used in this Vacancy Condition, the term building and the term vacant have the meanings set forth in (1)(a) and (1)(b) below:
  - (a) When this policy is issued to a tenant, and with respect to that tenant's interest in Covered Property, building means the unit or suite rented or leased to the tenant. Such building is vacant when it does not contain enough business personal property to conduct customary operations.

- (b) When this policy is issued to the owner or general lessee of a building, building means the entire building. Such building is vacant unless at least 31% of its total square footage is:

- (i) Rented to a lessee or sub-lessee and used by the lessee or sub-lessee to conduct its customary operations; and/or
- (ii) Used by the building owner to conduct customary operations.

- (2) Buildings under construction or renovation are not considered vacant.

##### b. Vacancy Provisions

If the building where loss or damage occurs has been vacant for more than 60 consecutive days before that loss or damage occurs:

- (1) We will not pay for any loss or damage caused by any of the following even if they are Covered Causes of Loss:
  - (a) Vandalism;
  - (b) Sprinkler leakage, unless you have protected the system against freezing;
  - (c) Building glass breakage;
  - (d) Water damage;
  - (e) Theft; or
  - (f) Attempted theft.
- (2) With respect to Covered Causes of Loss other than those listed in b.(1)(a) through b.(1)(f) above, we will reduce the amount we would otherwise pay for the loss or damage by 15%.

#### 7. Valuation

We will determine the value of Covered Property in the event of loss or damage as follows:

- a. At actual cash value as of the time of loss or damage, except as provided in b., c., d. and e. below.
- b. If the Limit of Insurance for Building satisfies the Additional Condition, Coinsurance, and the cost to repair or replace the damaged building property is \$2,500 or less, we will pay the cost of building repairs or replacement.



The cost of building repairs or replacement does not include the increased cost attributable to enforcement of any ordinance or law regulating the construction, use or repair of any property.

However, the following property will be valued at the actual cash value even when attached to the building:

- (1) Awnings or floor coverings;
  - (2) Appliances for refrigerating, ventilating, cooking, dishwashing or laundering; or
  - (3) Outdoor equipment or furniture.
- c. "Stock" you have sold but not delivered at the selling price less discounts and expenses you otherwise would have had.
- d. Glass at the cost of replacement with safety-glazing material if required by law.
- e. Tenants' Improvements and Betterments at:
- (1) Actual cash value of the lost or damaged property if you make repairs promptly.
  - (2) A proportion of your original cost if you do not make repairs promptly. We will determine the proportionate value as follows:
    - (a) Multiply the original cost by the number of days from the loss or damage to the expiration of the lease; and
    - (b) Divide the amount determined in (a) above by the number of days from the installation of improvements to the expiration of the lease.

If your lease contains a renewal option, the expiration of the renewal option period will replace the expiration of the lease in this procedure.
  - (3) Nothing if others pay for repairs or replacement.

#### F. Additional Conditions

The following conditions apply in addition to the Common Policy Conditions and the Commercial Property Conditions.

#### 1. Coinsurance

If a Coinsurance percentage is shown in the Declarations, the following condition applies.

- a. We will not pay the full amount of any loss if the value of Covered Property at the time of loss times the Coinsurance percentage shown for it in the Declarations is greater than the Limit of Insurance for the property.

Instead, we will determine the most we will pay using the following steps:

- (1) Multiply the value of Covered Property at the time of loss by the Coinsurance percentage;
- (2) Divide the Limit of Insurance of the property by the figure determined in Step (1);
- (3) Multiply the total amount of loss, before the application of any deductible, by the figure determined in Step (2); and
- (4) Subtract the deductible from the figure determined in Step (3).

We will pay the amount determined in Step (4) or the limit of insurance, whichever is less. For the remainder, you will either have to rely on other insurance or absorb the loss yourself.

#### EXAMPLE #1 (UNDERINSURANCE)

When:	The value of the property is:	\$ 250,000
	The Coinsurance percentage for it is:	80%
	The Limit of Insurance for it is:	\$ 100,000
	The Deductible is:	\$ 250
	The amount of loss is:	\$ 40,000

Step (1):  $\$250,000 \times 80\% = \$200,000$   
(the minimum amount of insurance to meet your Coinsurance requirements)

Step (2):  $\$100,000 \div \$200,000 = .50$

Step (3):  $\$40,000 \times .50 = \$20,000$

Step (4):  $\$20,000 - \$250 = \$19,750$

We will pay no more than \$19,750. The remaining \$20,250 is not covered.



**EXAMPLE #2 (ADEQUATE INSURANCE)**

When:	The value of the property is:	\$ 250,000
	The Coinsurance percentage for it is:	80%
	The Limit of Insurance for it is:	\$ 200,000
	The Deductible is:	\$ 250
	The amount of loss is:	\$ 40,000

The minimum amount of insurance to meet your Coinsurance requirement is \$200,000 (\$250,000 x 80%). Therefore, the Limit of Insurance in this example is adequate and no penalty applies. We will pay no more than \$39,750 (\$40,000 amount of loss minus the deductible of \$250).

- b. If one Limit of Insurance applies to two or more separate items, this condition will apply to the total of all property to which the limit applies.

**EXAMPLE #3**

When:	The value of the property is:	
	Building at Location #1:	\$ 75,000
	Building at Location #2:	\$ 100,000
	Personal Property at Location #2:	\$ 75,000
		<u>\$ 250,000</u>
	The Coinsurance percentage for it is:	90%
	The Limit of Insurance for Buildings and Personal Property at Locations #1 and #2 is:	\$ 180,000
	The Deductible is:	\$ 1,000
	The amount of loss is:	
	Building at Location #2:	\$ 30,000
	Personal Property at Location #2:	\$ 20,000
		<u>\$ 50,000</u>

Step (1):  $\$250,000 \times 90\% = \$225,000$   
(the minimum amount of insurance to meet your Coinsurance requirements and to avoid the penalty shown below)

Step (2):  $\$180,000 \div \$225,000 = .80$

Step (3):  $\$50,000 \times .80 = \$40,000$

Step (4):  $\$40,000 - \$1,000 = \$39,000$

We will pay no more than \$39,000. The remaining \$11,000 is not covered.

**2. Mortgageholders**

- a. The term mortgageholder includes trustee.
- b. We will pay for covered loss of or damage to buildings or structures to each mortgageholder shown in the Declarations in their order of precedence, as interests may appear.
- c. The mortgageholder has the right to receive loss payment even if the mortgageholder has started foreclosure or similar action on the building or structure.
- d. If we deny your claim because of your acts or because you have failed to comply with the terms of this Coverage Part, the mortgageholder will still have the right to receive loss payment if the mortgageholder:

- (1) Pays any premium due under this Coverage Part at our request if you have failed to do so;
- (2) Submits a signed, sworn proof of loss within 60 days after receiving notice from us of your failure to do so; and
- (3) Has notified us of any change in ownership, occupancy or substantial change in risk known to the mortgageholder.

All of the terms of this Coverage Part will then apply directly to the mortgageholder.

- e. If we pay the mortgageholder for any loss or damage and deny payment to you because of your acts or because you have failed to comply with the terms of this Coverage Part:

- (1) The mortgageholder's rights under the mortgage will be transferred to us to the extent of the amount we pay; and
- (2) The mortgageholder's right to recover the full amount of the mortgageholder's claim will not be impaired.

At our option, we may pay to the mortgageholder the whole principal on the mortgage plus any accrued interest. In this event, your mortgage and note will be transferred to us and you will pay your remaining mortgage debt to us.

- f. If we cancel this policy, we will give written notice to the mortgageholder at least:
  - (1) 10 days before the effective date of cancellation if we cancel for your non-payment of premium; or
  - (2) 30 days before the effective date of cancellation if we cancel for any other reason.



- g. If we elect not to renew this policy, we will give written notice to the mortgageholder at least 10 days before the expiration date of this policy.

### G. Optional Coverages

If shown as applicable in the Declarations, the following Optional Coverages apply separately to each item.

#### 1. Agreed Value

- a. The Additional Condition, Coinsurance, does not apply to Covered Property to which this Optional Coverage applies. We will pay no more for loss of or damage to that property than the proportion that the Limit of Insurance under this Coverage Part for the property bears to the Agreed Value shown for it in the Declarations.
- b. If the expiration date for this Optional Coverage shown in the Declarations is not extended, the Additional Condition, Coinsurance, is reinstated and this Optional Coverage expires.
- c. The terms of this Optional Coverage apply only to loss or damage that occurs:
  - (1) On or after the effective date of this Optional Coverage; and
  - (2) Before the Agreed Value expiration date shown in the Declarations or the policy expiration date, whichever occurs first.

#### 2. Inflation Guard

- a. The Limit of Insurance for property to which this Optional Coverage applied will automatically increase by the annual percentage shown in the Declarations.
- b. The amount of increase will be:
  - (1) The Limit of Insurance that applied on the most recent of the policy inception date, the policy anniversary date, or any other policy change amending the Limit of Insurance, times
  - (2) The percentage of annual increase shown in the Declarations, expressed as a decimal (example: 8% is .08), times
  - (3) The number of days since the beginning of the current policy year or the effective date of the most recent policy change amending the Limit of Insurance, divided by 365.

### EXAMPLE

If: The applicable Limit of Insurance is: \$ 100,000  
 The annual percentage increase is: 8%  
 The number of days since the beginning of the policy year (or last policy change) is: 146  
 The amount of increase is:  
 $\$100,000 \times .08 \times 146 \div 365 =$  \$ 3,200

#### 3. Replacement Cost

- a. Replacement Cost (without deduction for depreciation) replaces Actual Cash Value in the Valuation Loss Condition of this Coverage Form.
- b. This Optional Coverage does not apply to:
  - (1) Personal property of others;
  - (2) Contents of a residence;
  - (3) Works of art, antiques or rare articles, including etchings, pictures, statuary, marbles, bronzes, porcelains and bric-a-brac; or
  - (4) "Stock", unless the Including "Stock" option is shown in the Declarations.

Under the terms of this Replacement Cost Optional Coverage, tenants' improvements and betterments are not considered to be the personal property of others.

- c. You may make a claim for loss or damage covered by this insurance on an actual cash value basis instead of on a replacement cost basis. In the event you elect to have loss or damage settled on an actual cash value basis, you may still make a claim for the additional coverage this Optional Coverage provides if you notify us of your intent to do so within 180 days after the loss or damage.
- d. We will not pay on a replacement cost basis for any loss or damage:
  - (1) Until the lost or damaged property is actually repaired or replaced; and
  - (2) Unless the repairs or replacement are made as soon as reasonably possible after the loss or damage.

With respect to tenants' improvements and betterments, the following also apply:

- (3) If the conditions in d.(1) and d.(2) above are not met, the value of tenants' improvements and betterments will be determined as a proportion of your original cost, as set forth in the Valuation Loss Condition of this Coverage Form; and
- (4) We will not pay for loss or damage to tenants' improvements and betterments if others pay for repairs or replacement.
- e. We will not pay more for loss or damage on a replacement cost basis than the least of (1), (2) or (3), subject to f. below:
  - (1) The Limit of Insurance applicable to the lost or damaged property;
  - (2) The cost to replace the lost or damaged property with other property:
    - (a) Of comparable material and quality; and
    - (b) Used for the same purpose; or
  - (3) The amount actually spent that is necessary to repair or replace the lost or damaged property.

If a building is rebuilt at a new premises, the cost described in e.(2) above is limited to the cost which would have been incurred if the building had been rebuilt at the original premises.
- f. The cost of repair or replacement does not include the increased cost attributable to enforcement of any ordinance or law regulating the construction, use or repair of any property.

#### 4. Extension Of Replacement Cost To Personal Property Of Others

- a. If the Replacement Cost Optional Coverage is shown as applicable in the Declarations, then this Extension may also be shown as applicable. If the Declarations show this Extension as applicable, then Paragraph 3.b.(1) of the Replacement Cost Optional Coverage is deleted and all other provisions of the Replacement Cost Optional Coverage apply to replacement cost on personal property of others.
- b. With respect to replacement cost on the personal property of others, the following limitation applies:
 

If an item(s) of personal property of others is subject to a written contract which governs your liability for loss or damage to that item(s), then valuation of that item(s) will be based on the amount for which you are liable under such contract, but not to exceed the lesser of the replacement cost of the property or the applicable Limit of Insurance.

#### H. Definitions

- 1. "Fungus" means any type or form of fungus, including mold or mildew, and any mycotoxins, spores, scents or by-products produced or released by fungi.
- 2. "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.
- 3. "Stock" means merchandise held in storage or for sale, raw materials and in-process or finished goods, including supplies used in their packing or shipping.

All terms and conditions of this policy apply unless modified by this endorsement.



## BUSINESS INCOME (AND EXTRA EXPENSE) COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy, the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we", "us" and "our" refer to the company providing this insurance.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section F. Definitions.

### A. Coverage

#### 1. Business Income

Business Income means the:

- a. Net Income (Net Profit or Loss before income taxes) that would have been earned or incurred; and
- b. Continuing normal operating expenses incurred, including payroll.

For manufacturing risks, Net Income includes the net sales value of production.

Coverage is provided as described and limited below for one or more of the following options for which a Limit Of Insurance is shown in the Declarations:

- (1) Business Income Including "Rental Value".
- (2) Business Income Other Than "Rental Value".
- (3) "Rental Value".

If option (1) above is selected, the term Business Income will include "Rental Value". If option (3) above is selected, the term Business Income will mean "Rental Value" only.

If Limits of Insurance are shown under more than one of the above options, the provisions of this Coverage Part apply separately to each.

We will pay for the actual loss of Business Income you sustain due to the necessary "suspension" of your "operations" during the "period of restoration". The "suspension" must be caused by direct physical loss of or damage to property at premises which are described in the Declarations and for which a Business Income Limit Of Insurance is shown in the Declarations. The loss or damage must be caused by or result from a Covered Cause of Loss. With respect to loss of or damage to personal property in the open or personal property in a vehicle, the described premises include the area within 100 feet of such premises.

With respect to the requirements set forth in the preceding paragraph, if you occupy only part of a building, your premises means:

- (a) The portion of the building which you rent, lease or occupy;
- (b) The area within 100 feet of the building or within 100 feet of the premises described in the Declarations, whichever distance is greater (with respect to loss of or damage to personal property in the open or personal property in a vehicle); and
- (c) Any area within the building or at the described premises, if that area services, or is used to gain access to, the portion of the building which you rent, lease or occupy.

#### 2. Extra Expense

- a. Extra Expense Coverage is provided at the premises described in the Declarations only if the Declarations show that Business Income Coverage applies at that premises.
- b. Extra Expense means necessary expenses you incur during the "period of restoration" that you would not have incurred if there had been no direct physical loss or damage to property caused by or resulting from a Covered Cause of Loss.

We will pay Extra Expense (other than the expense to repair or replace property) to:

- (1) Avoid or minimize the "suspension" of business and to continue operations at the described premises or at replacement premises or temporary locations, including relocation expenses and costs to equip and operate the replacement location or temporary location.



- (2) Minimize the "suspension" of business if you cannot continue "operations".

We will also pay Extra Expense to repair or replace property, but only to the extent it reduces the amount of loss that otherwise would have been payable under this Coverage Form.

**3. Covered Causes Of Loss, Exclusions And Limitations**

See applicable Causes Of Loss form as shown in the Declarations.

**4. Additional Limitation – Interruption Of Computer Operations**

- a. Coverage for Business Income does not apply when a "suspension" of "operations" is caused by destruction or corruption of electronic data, or any loss or damage to electronic data, except as provided under the Additional Coverage, Interruption Of Computer Operations.
- b. Coverage for Extra Expense does not apply when action is taken to avoid or minimize a "suspension" of "operations" caused by destruction or corruption of electronic data, or any loss or damage to electronic data, except as provided under the Additional Coverage, Interruption Of Computer Operations.
- c. Electronic data means information, facts or computer programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), on hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other repositories of computer software which are used with electronically controlled equipment. The term computer programs, referred to in the foregoing description of electronic data, means a set of related electronic instructions which direct the operations and functions of a computer or device connected to it, which enable the computer or device to receive, process, store, retrieve or send data.
- d. This Additional Limitation does not apply when loss or damage to electronic data involves only electronic data which is integrated in and operates or controls a building's elevator, lighting, heating, ventilation, air conditioning or security system.

**5. Additional Coverages**

**a. Civil Authority**

In this Additional Coverage, Civil Authority, the described premises are premises to which this Coverage Form applies, as shown in the Declarations.

When a Covered Cause of Loss causes damage to property other than property at the described premises, we will pay for the actual loss of Business Income you sustain and necessary Extra Expense caused by action of civil authority that prohibits access to the described premises, provided that both of the following apply:

- (1) Access to the area immediately surrounding the damaged property is prohibited by civil authority as a result of the damage, and the described premises are within that area but are not more than one mile from the damaged property; and
- (2) The action of civil authority is taken in response to dangerous physical conditions resulting from the damage or continuation of the Covered Cause of Loss that caused the damage, or the action is taken to enable a civil authority to have unimpeded access to the damaged property.

Civil Authority Coverage for Business Income will begin 72 hours after the time of the first action of civil authority that prohibits access to the described premises and will apply for a period of up to four consecutive weeks from the date on which such coverage began.

Civil Authority Coverage for Extra Expense will begin immediately after the time of the first action of civil authority that prohibits access to the described premises and will end:

- (1) Four consecutive weeks after the date of that action; or
  - (2) When your Civil Authority Coverage for Business Income ends;
- whichever is later.



**b. Alterations And New Buildings**

We will pay for the actual loss of Business Income you sustain and necessary Extra Expense you incur due to direct physical loss or damage at the described premises caused by or resulting from any Covered Cause of Loss to:

- (1) New buildings or structures, whether complete or under construction;
- (2) Alterations or additions to existing buildings or structures; and
- (3) Machinery, equipment, supplies or building materials located on or within 100 feet of the described premises and:
  - (a) Used in the construction, alterations or additions; or
  - (b) Incidental to the occupancy of new buildings.

If such direct physical loss or damage delays the start of "operations", the "period of restoration" for Business Income Coverage will begin on the date "operations" would have begun if the direct physical loss or damage had not occurred.

**c. Extended Business Income**

**(1) Business Income Other Than "Rental Value"**

If the necessary "suspension" of your "operations" produces a Business Income loss payable under this policy, we will pay for the actual loss of Business Income you incur during the period that:

- (a) Begins on the date property (except "finished stock") is actually repaired, rebuilt or replaced and "operations" are resumed; and
- (b) Ends on the earlier of:
  - (i) The date you could restore your "operations", with reasonable speed, to the level which would generate the business income amount that would have existed if no direct physical loss or damage had occurred; or
  - (ii) 60 consecutive days after the date determined in (1)(a) above.

However, Extended Business Income does not apply to loss of Business Income incurred as a result of unfavorable business conditions caused by the impact of the Covered Cause of Loss in the area where the described premises are located.

Loss of Business Income must be caused by direct physical loss or damage at the described premises caused by or resulting from any Covered Cause of Loss.

**(2) "Rental Value"**

If the necessary "suspension" of your "operations" produces a "Rental Value" loss payable under this policy, we will pay for the actual loss of "Rental Value" you incur during the period that:

- (a) Begins on the date property is actually repaired, rebuilt or replaced and tenantability is restored; and
- (b) Ends on the earlier of:
  - (i) The date you could restore tenant occupancy, with reasonable speed, to the level which would generate the "Rental Value" that would have existed if no direct physical loss or damage had occurred; or
  - (ii) 60 consecutive days after the date determined in (2)(a) above.

However, Extended Business Income does not apply to loss of "Rental Value" incurred as a result of unfavorable business conditions caused by the impact of the Covered Cause of Loss in the area where the described premises are located.

Loss of "Rental Value" must be caused by direct physical loss or damage at the described premises caused by or resulting from any Covered Cause of Loss.

**d. Interruption Of Computer Operations**

- (1) Under this Additional Coverage, electronic data has the meaning described under Additional Limitation – Interruption Of Computer Operations.



- (2) Subject to all provisions of this Additional Coverage, you may extend the insurance that applies to Business Income and Extra Expense to apply to a "suspension" of "operations" caused by an interruption in computer operations due to destruction or corruption of electronic data due to a Covered Cause of Loss. However, we will not provide coverage under this Additional Coverage when the Additional Limitation – Interruption Of Computer Operations does not apply based on Paragraph A.4.d. therein.
- (3) With respect to the coverage provided under this Additional Coverage, the Covered Causes of Loss are subject to the following:
  - (a) If the Causes Of Loss – Special Form applies, coverage under this Additional Coverage, Interruption Of Computer Operations, is limited to the "specified causes of loss" as defined in that form and Collapse as set forth in that form.
  - (b) If the Causes Of Loss – Broad Form applies, coverage under this Additional Coverage, Interruption Of Computer Operations, includes Collapse as set forth in that form.
  - (c) If the Causes Of Loss form is endorsed to add a Covered Cause of Loss, the additional Covered Cause of Loss does not apply to the coverage provided under this Additional Coverage, Interruption Of Computer Operations.
  - (d) The Covered Causes of Loss include a virus, harmful code or similar instruction introduced into or enacted on a computer system (including electronic data) or a network to which it is connected, designed to damage or destroy any part of the system or disrupt its normal operation. But there is no coverage for an interruption related to manipulation of a computer system (including electronic data) by any employee, including a temporary or leased employee, or by an entity retained by you or for you to inspect, design, install, maintain, repair or replace that system.
- (4) The most we will pay under this Additional Coverage, Interruption Of Computer Operations, is \$2,500 (unless a higher limit is shown in the Declarations) for all loss sustained and expense incurred in any one policy year, regardless of the number of interruptions or the number of premises, locations or computer systems involved. If loss payment relating to the first interruption does not exhaust this amount, then the balance is available for loss or expense sustained or incurred as a result of subsequent interruptions in that policy year. A balance remaining at the end of a policy year does not increase the amount of insurance in the next policy year. With respect to any interruption which begins in one policy year and continues or results in additional loss or expense in a subsequent policy year(s), all loss and expense is deemed to be sustained or incurred in the policy year in which the interruption began.
- (5) This Additional Coverage, Interruption Of Computer Operations, does not apply to loss sustained or expense incurred after the end of the "period of restoration", even if the amount of insurance stated in (4) above has not been exhausted.

#### 6. Coverage Extension

If a Coinsurance percentage of 50% or more is shown in the Declarations, you may extend the insurance provided by this Coverage Part as follows:

##### Newly Acquired Locations

- a. You may extend your Business Income and Extra Expense Coverages to apply to property at any location you acquire other than fairs or exhibitions.
- b. The most we will pay under this Extension, for the sum of Business Income loss and Extra Expense incurred, is \$100,000 at each location, unless a higher limit is shown in the Declarations.
- c. Insurance under this Extension for each newly acquired location will end when any of the following first occurs:
  - (1) This policy expires;



- (2) 30 days expire after you acquire or begin to construct the property; or
- (3) You report values to us.

We will charge you additional premium for values reported from the date you acquire the property.

The Additional Condition, Coinsurance, does not apply to this Extension.

#### **B. Limits Of Insurance**

The most we will pay for loss in any one occurrence is the applicable Limit Of Insurance shown in the Declarations.

Payments under the following coverages will not increase the applicable Limit of Insurance:

1. Alterations And New Buildings;
2. Civil Authority;
3. Extra Expense; or
4. Extended Business Income.

The amounts of insurance stated in the Interruption Of Computer Operations Additional Coverage and the Newly Acquired Locations Coverage Extension apply in accordance with the terms of those coverages and are separate from the Limit(s) Of Insurance shown in the Declarations for any other coverage.

#### **C. Loss Conditions**

The following conditions apply in addition to the Common Policy Conditions and the Commercial Property Conditions:

##### **1. Appraisal**

If we and you disagree on the amount of Net Income and operating expense or the amount of loss, either may make written demand for an appraisal of the loss. In this event, each party will select a competent and impartial appraiser.

The two appraisers will select an umpire. If they cannot agree, either may request that selection be made by a judge of a court having jurisdiction. The appraisers will state separately the amount of Net Income and operating expense or amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

- a. Pay its chosen appraiser; and
- b. Bear the other expenses of the appraisal and umpire equally.

If there is an appraisal, we will still retain our right to deny the claim.

#### **2. Duties In The Event Of Loss**

- a. You must see that the following are done in the event of loss:

- (1) Notify the police if a law may have been broken.
- (2) Give us prompt notice of the direct physical loss or damage. Include a description of the property involved.
- (3) As soon as possible, give us a description of how, when and where the direct physical loss or damage occurred.
- (4) Take all reasonable steps to protect the Covered Property from further damage, and keep a record of your expenses necessary to protect the Covered Property, for consideration in the settlement of the claim. This will not increase the Limit of Insurance. However, we will not pay for any subsequent loss or damage resulting from a cause of loss that is not a Covered Cause of Loss. Also, if feasible, set the damaged property aside and in the best possible order for examination.
- (5) As often as may be reasonably required, permit us to inspect the property proving the loss or damage and examine your books and records.

Also permit us to take samples of damaged and undamaged property for inspection, testing and analysis, and permit us to make copies from your books and records.

- (6) Send us a signed, sworn proof of loss containing the information we request to investigate the claim. You must do this within 60 days after our request. We will supply you with the necessary forms.
  - (7) Cooperate with us in the investigation or settlement of the claim.
  - (8) If you intend to continue your business, you must resume all or part of your "operations" as quickly as possible.
- b. We may examine any insured under oath, while not in the presence of any other insured and at such times as may be reasonably required, about any matter relating to this insurance or the claim, including an insured's books and records. In the event of an examination, an insured's answers must be signed.



### 3. Loss Determination

- a. The amount of Business Income loss will be determined based on:
- (1) The Net Income of the business before the direct physical loss or damage occurred;
  - (2) The likely Net Income of the business if no physical loss or damage had occurred, but not including any Net Income that would likely have been earned as a result of an increase in the volume of business due to favorable business conditions caused by the impact of the Covered Cause of Loss on customers or on other businesses;
  - (3) The operating expenses, including payroll expenses, necessary to resume "operations" with the same quality of service that existed just before the direct physical loss or damage; and
  - (4) Other relevant sources of information, including:
    - (a) Your financial records and accounting procedures;
    - (b) Bills, invoices and other vouchers; and
    - (c) Deeds, liens or contracts.
- b. The amount of Extra Expense will be determined based on:
- (1) All expenses that exceed the normal operating expenses that would have been incurred by "operations" during the "period of restoration" if no direct physical loss or damage had occurred. We will deduct from the total of such expenses:
    - (a) The salvage value that remains of any property bought for temporary use during the "period of restoration", once "operations" are resumed; and
    - (b) Any Extra Expense that is paid for by other insurance, except for insurance that is written subject to the same plan, terms, conditions and provisions as this insurance; and
  - (2) Necessary expenses that reduce the Business Income loss that otherwise would have been incurred.

### c. Resumption Of Operations

We will reduce the amount of your:

- (1) Business Income loss, other than Extra Expense, to the extent you can resume your "operations", in whole or in part, by using damaged or undamaged property (including merchandise or stock) at the described premises or elsewhere.
  - (2) Extra Expense loss to the extent you can return "operations" to normal and discontinue such Extra Expense.
- d. If you do not resume "operations", or do not resume "operations" as quickly as possible, we will pay based on the length of time it would have taken to resume "operations" as quickly as possible.

### 4. Loss Payment

We will pay for covered loss within 30 days after we receive the sworn proof of loss, if you have complied with all of the terms of this Coverage Part, and:

- a. We have reached agreement with you on the amount of loss; or
- b. An appraisal award has been made.

### D. Additional Condition

#### COINSURANCE

If a Coinsurance percentage is shown in the Declarations, the following condition applies in addition to the Common Policy Conditions and the Commercial Property Conditions.

We will not pay the full amount of any Business Income loss if the Limit of Insurance for Business Income is less than:

1. The Coinsurance percentage shown for Business Income in the Declarations; times
2. The sum of:
  - a. The Net Income (Net Profit or Loss before income taxes), and
  - b. Operating expenses, including payroll expenses,

that would have been earned or incurred (had no loss occurred) by your "operations" at the described premises for the 12 months following the inception, or last previous anniversary date, of this policy (whichever is later).



Instead, we will determine the most we will pay using the following steps:

- Step (1): Multiply the Net Income and operating expense for the 12 months following the inception, or last previous anniversary date, of this policy by the Coinsurance percentage;
- Step (2): Divide the Limit of Insurance for the described premises by the figure determined in Step (1); and
- Step (3): Multiply the total amount of loss by the figure determined in Step (2).

We will pay the amount determined in Step (3) or the limit of insurance, whichever is less. For the remainder, you will either have to rely on other insurance or absorb the loss yourself.

In determining operating expenses for the purpose of applying the Coinsurance condition, the following expenses, if applicable, shall be deducted from the total of all operating expenses:

- (1) Prepaid freight – outgoing;
- (2) Returns and allowances;
- (3) Discounts;
- (4) Bad debts;
- (5) Collection expenses;
- (6) Cost of raw stock and factory supplies consumed (including transportation charges);
- (7) Cost of merchandise sold (including transportation charges);
- (8) Cost of other supplies consumed (including transportation charges);
- (9) Cost of services purchased from outsiders (not employees) to resell, that do not continue under contract;
- (10) Power, heat and refrigeration expenses that do not continue under contract (if Form CP 15 11 is attached);
- (11) All payroll expenses or the amount of payroll expense excluded (if Form CP 15 10 is attached); and
- (12) Special deductions for mining properties (royalties unless specifically included in coverage; actual depletion commonly known as unit or cost depletion – not percentage depletion; welfare and retirement fund charges based on tonnage; hired trucks).

#### Example 1 (Underinsurance)

When: The Net Income and operating expenses for the 12 months following the inception, or last previous anniversary date, of this policy at the described premises would have been: \$ 400,000

The Coinsurance percentage is: 50%

The Limit of Insurance is: \$ 150,000

The amount of loss is: \$ 80,000

Step (1):  $\$400,000 \times 50\% = \$200,000$   
(the minimum amount of insurance to meet your Coinsurance requirements)

Step (2):  $\$150,000 \div \$200,000 = .75$

Step (3):  $\$80,000 \times .75 = \$60,000$

We will pay no more than \$60,000. The remaining \$20,000 is not covered.

#### Example 2 (Adequate Insurance)

When: The Net Income and operating expenses for the 12 months following the inception, or last previous anniversary date, of this policy at the described premises would have been: \$ 400,000

The Coinsurance percentage is: 50%

The Limit of Insurance is: \$ 200,000

The amount of loss is: \$ 80,000

The minimum amount of insurance to meet your Coinsurance requirement is \$200,000 (\$400,000 x 50%). Therefore, the Limit of Insurance in this example is adequate and no penalty applies. We will pay no more than \$80,000 (amount of loss).

This condition does not apply to Extra Expense Coverage.

#### E. Optional Coverages

If shown as applicable in the Declarations, the following Optional Coverages apply separately to each item.

##### 1. Maximum Period Of Indemnity

- a. The Additional Condition, Coinsurance, does not apply to this Coverage Form at the described premises to which this Optional Coverage applies.



b. The most we will pay for the total of Business Income loss and Extra Expense is the lesser of:

- (1) The amount of loss sustained and expenses incurred during the 120 days immediately following the beginning of the "period of restoration"; or
- (2) The Limit Of Insurance shown in the Declarations.

## 2. Monthly Limit Of Indemnity

- a. The Additional Condition, Coinsurance, does not apply to this Coverage Form at the described premises to which this Optional Coverage applies.
- b. The most we will pay for loss of Business Income in each period of 30 consecutive days after the beginning of the "period of restoration" is:
  - (1) The Limit of Insurance, multiplied by
  - (2) The fraction shown in the Declarations for this Optional Coverage.

### Example

When: The Limit of Insurance is: \$ 120,000  
The fraction shown in the Declarations for this Optional Coverage is: 1/4  
The most we will pay for loss in each period of 30 consecutive days is: \$ 30,000  
(\$120,000 x 1/4 = \$30,000)  
If, in this example, the actual amount of loss is:

Days 1-30:	\$ 40,000
Days 31-60:	\$ 20,000
Days 61-90:	\$ 30,000
	<hr/>
	\$ 90,000

We will pay:

Days 1-30:	\$ 30,000
Days 31-60:	\$ 20,000
Days 61-90:	\$ 30,000
	<hr/>
	\$ 80,000

The remaining \$10,000 is not covered.

## 3. Business Income Agreed Value

- a. To activate this Optional Coverage:
  - (1) A Business Income Report/Work Sheet must be submitted to us and must show financial data for your "operations":
    - (a) During the 12 months prior to the date of the Work Sheet; and

(b) Estimated for the 12 months immediately following the inception of this Optional Coverage.

(2) The Declarations must indicate that the Business Income Agreed Value Optional Coverage applies, and an Agreed Value must be shown in the Declarations. The Agreed Value should be at least equal to:

(a) The Coinsurance percentage shown in the Declarations; multiplied by

(b) The amount of Net Income and operating expenses for the following 12 months you report on the Work Sheet.

b. The Additional Condition, Coinsurance, is suspended until:

(1) 12 months after the effective date of this Optional Coverage; or

(2) The expiration date of this policy; whichever occurs first.

c. We will reinstate the Additional Condition, Coinsurance, automatically if you do not submit a new Work Sheet and Agreed Value:

(1) Within 12 months of the effective date of this Optional Coverage; or

(2) When you request a change in your Business Income Limit of Insurance.

d. If the Business Income Limit of Insurance is less than the Agreed Value, we will not pay more of any loss than the amount of loss multiplied by:

(1) The Business Income Limit of Insurance; divided by

(2) The Agreed Value.

### Example

When: The Limit of Insurance is: \$ 100,000  
The Agreed Value is: \$ 200,000  
The amount of loss is: \$ 80,000

Step (1):  $\$100,000 \div \$200,000 = .50$

Step (2):  $.50 \times \$80,000 = \$40,000$

We will pay \$40,000. The remaining \$40,000 is not covered.

## 4. Extended Period Of Indemnity

Under Paragraph A.5.c., **Extended Business Income**, the number 60 in Subparagraphs (1)(b) and (2)(b) is replaced by the number shown in the Declarations for this Optional Coverage.



## F. Definitions

1. "Finished stock" means stock you have manufactured.

"Finished stock" also includes whiskey and alcoholic products being aged, unless there is a Coinsurance percentage shown for Business Income in the Declarations.

"Finished stock" does not include stock you have manufactured that is held for sale on the premises of any retail outlet insured under this Coverage Part.

2. "Operations" means:
  - a. Your business activities occurring at the described premises; and
  - b. The tenantability of the described premises, if coverage for Business Income Including "Rental Value" or "Rental Value" applies.
3. "Period of restoration" means the period of time that:
  - a. Begins:
    - (1) 72 hours after the time of direct physical loss or damage for Business Income Coverage; or
    - (2) Immediately after the time of direct physical loss or damage for Extra Expense Coverage;  
caused by or resulting from any Covered Cause of Loss at the described premises; and
  - b. Ends on the earlier of:
    - (1) The date when the property at the described premises should be repaired, rebuilt or replaced with reasonable speed and similar quality; or
    - (2) The date when business is resumed at a new permanent location.

"Period of restoration" does not include any increased period required due to the enforcement of or compliance with any ordinance or law that:

- (1) Regulates the construction, use or repair, or requires the tearing down, of any property; or

- (2) Requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants".

The expiration date of this policy will not cut short the "period of restoration".

4. "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.
5. "Rental Value" means Business Income that consists of:
  - a. Net Income (Net Profit or Loss before income taxes) that would have been earned or incurred as rental income from tenant occupancy of the premises described in the Declarations as furnished and equipped by you, including fair rental value of any portion of the described premises which is occupied by you; and
  - b. Continuing normal operating expenses incurred in connection with that premises, including:
    - (1) Payroll; and
    - (2) The amount of charges which are the legal obligation of the tenant(s) but would otherwise be your obligations.
6. "Suspension" means:
  - a. The slowdown or cessation of your business activities; or
  - b. That a part or all of the described premises is rendered untenable, if coverage for Business Income Including "Rental Value" or "Rental Value" applies.

## CAUSES OF LOSS – SPECIAL FORM

Words and phrases that appear in quotation marks have special meaning. Refer to Section G. Definitions.

### A. Covered Causes Of Loss

When Special is shown in the Declarations, Covered Causes of Loss means direct physical loss unless the loss is excluded or limited in this policy.

### B. Exclusions

1. We will not pay for loss or damage caused directly or indirectly by any of the following. Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss.

#### a. Ordinance Or Law

The enforcement of or compliance with any ordinance or law:

- (1) Regulating the construction, use or repair of any property; or
- (2) Requiring the tearing down of any property, including the cost of removing its debris.

This exclusion, Ordinance Or Law, applies whether the loss results from:

- (a) An ordinance or law that is enforced even if the property has not been damaged; or
- (b) The increased costs incurred to comply with an ordinance or law in the course of construction, repair, renovation, remodeling or demolition of property, or removal of its debris, following a physical loss to that property.

#### b. Earth Movement

- (1) Earthquake, including tremors and aftershocks and any earth sinking, rising or shifting related to such event;
- (2) Landslide, including any earth sinking, rising or shifting related to such event;
- (3) Mine subsidence, meaning subsidence of a man-made mine, whether or not mining activity has ceased;

- (4) Earth sinking (other than sinkhole collapse), rising or shifting including soil conditions which cause settling, cracking or other disarrangement of foundations or other parts of realty. Soil conditions include contraction, expansion, freezing, thawing, erosion, improperly compacted soil and the action of water under the ground surface.

But if Earth Movement, as described in b.(1) through (4) above, results in fire or explosion, we will pay for the loss or damage caused by that fire or explosion.

- (5) Volcanic eruption, explosion or effusion. But if volcanic eruption, explosion or effusion results in fire, building glass breakage or Volcanic Action, we will pay for the loss or damage caused by that fire, building glass breakage or Volcanic Action.

Volcanic Action means direct loss or damage resulting from the eruption of a volcano when the loss or damage is caused by:

- (a) Airborne volcanic blast or airborne shock waves;
- (b) Ash, dust or particulate matter; or
- (c) Lava flow.

With respect to coverage for Volcanic Action as set forth in (5)(a), (5)(b) and (5)(c), all volcanic eruptions that occur within any 168-hour period will constitute a single occurrence.

Volcanic Action does not include the cost to remove ash, dust or particulate matter that does not cause direct physical loss or damage to the described property.

This exclusion applies regardless of whether any of the above, in Paragraphs (1) through (5), is caused by an act of nature or is otherwise caused.



**c. Governmental Action**

Seizure or destruction of property by order of governmental authority.

But we will pay for loss or damage caused by or resulting from acts of destruction ordered by governmental authority and taken at the time of a fire to prevent its spread, if the fire would be covered under this Coverage Part.

**d. Nuclear Hazard**

Nuclear reaction or radiation, or radioactive contamination, however caused.

But if nuclear reaction or radiation, or radioactive contamination, results in fire, we will pay for the loss or damage caused by that fire.

**e. Utility Services**

The failure of power, communication, water or other utility service supplied to the described premises, however caused, if the failure:

- (1) Originates away from the described premises; or
- (2) Originates at the described premises, but only if such failure involves equipment used to supply the utility service to the described premises from a source away from the described premises.

Failure of any utility service includes lack of sufficient capacity and reduction in supply.

Loss or damage caused by a surge of power is also excluded, if the surge would not have occurred but for an event causing a failure of power.

But if the failure or surge of power, or the failure of communication, water or other utility service, results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

Communication services include but are not limited to service relating to Internet access or access to any electronic, cellular or satellite network.

**f. War And Military Action**

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or

- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

**g. Water**

- (1) Flood, surface water, waves (including tidal wave and tsunami), tides, tidal water, overflow of any body of water, or spray from any of these, all whether or not driven by wind (including storm surge);
- (2) Mudslide or mudflow;
- (3) Water that backs up or overflows or is otherwise discharged from a sewer, drain, sump, sump pump or related equipment;
- (4) Water under the ground surface pressing on, or flowing or seeping through:
  - (a) Foundations, walls, floors or paved surfaces;
  - (b) Basements, whether paved or not; or
  - (c) Doors, windows or other openings; or
- (5) Waterborne material carried or otherwise moved by any of the water referred to in Paragraph (1), (3) or (4), or material carried or otherwise moved by mudslide or mudflow.

This exclusion applies regardless of whether any of the above, in Paragraphs (1) through (5), is caused by an act of nature or is otherwise caused. An example of a situation to which this exclusion applies is the situation where a dam, levee, seawall or other boundary or containment system fails in whole or in part, for any reason, to contain the water.

But if any of the above, in Paragraphs (1) through (5), results in fire, explosion or sprinkler leakage, we will pay for the loss or damage caused by that fire, explosion or sprinkler leakage (if sprinkler leakage is a Covered Cause of Loss).

**h. "Fungus", Wet Rot, Dry Rot And Bacteria**

Presence, growth, proliferation, spread or any activity of "fungus", wet or dry rot or bacteria.

But if "fungus", wet or dry rot or bacteria result in a "specified cause of loss", we will pay for the loss or damage caused by that "specified cause of loss".



This exclusion does not apply:

- (1) When "fungus", wet or dry rot or bacteria result from fire or lightning; or
- (2) To the extent that coverage is provided in the Additional Coverage, Limited Coverage For "Fungus", Wet Rot, Dry Rot And Bacteria, with respect to loss or damage by a cause of loss other than fire or lightning.

Exclusions B.1.a. through B.1.h. apply whether or not the loss event results in widespread damage or affects a substantial area.

2. We will not pay for loss or damage caused by or resulting from any of the following:

- a. Artificially generated electrical, magnetic or electromagnetic energy that damages, disturbs, disrupts or otherwise interferes with any:

- (1) Electrical or electronic wire, device, appliance, system or network; or
- (2) Device, appliance, system or network utilizing cellular or satellite technology.

For the purpose of this exclusion, electrical, magnetic or electromagnetic energy includes but is not limited to:

- (a) Electrical current, including arcing;
- (b) Electrical charge produced or conducted by a magnetic or electromagnetic field;
- (c) Pulse of electromagnetic energy; or
- (d) Electromagnetic waves or microwaves.

But if fire results, we will pay for the loss or damage caused by that fire.

- b. Delay, loss of use or loss of market.
- c. Smoke, vapor or gas from agricultural smudging or industrial operations.
- d.(1) Wear and tear;
- (2) Rust or other corrosion, decay, deterioration, hidden or latent defect or any quality in property that causes it to damage or destroy itself;
- (3) Smog;
- (4) Settling, cracking, shrinking or expansion;

- (5) Nesting or infestation, or discharge or release of waste products or secretions, by insects, birds, rodents or other animals.

- (6) Mechanical breakdown, including rupture or bursting caused by centrifugal force. But if mechanical breakdown results in elevator collision, we will pay for the loss or damage caused by that elevator collision.

- (7) The following causes of loss to personal property:

- (a) Dampness or dryness of atmosphere;
- (b) Changes in or extremes of temperature; or
- (c) Marring or scratching.

But if an excluded cause of loss that is listed in 2.d.(1) through (7) results in a "specified cause of loss" or building glass breakage, we will pay for the loss or damage caused by that "specified cause of loss" or building glass breakage.

- e. Explosion of steam boilers, steam pipes, steam engines or steam turbines owned or leased by you, or operated under your control. But if explosion of steam boilers, steam pipes, steam engines or steam turbines results in fire or combustion explosion, we will pay for the loss or damage caused by that fire or combustion explosion. We will also pay for loss or damage caused by or resulting from the explosion of gases or fuel within the furnace of any fired vessel or within the flues or passages through which the gases of combustion pass.
- f. Continuous or repeated seepage or leakage of water, or the presence or condensation of humidity, moisture or vapor, that occurs over a period of 14 days or more.
- g. Water, other liquids, powder or molten material that leaks or flows from plumbing, heating, air conditioning or other equipment (except fire protective systems) caused by or resulting from freezing, unless:
  - (1) You do your best to maintain heat in the building or structure; or



- (2) You drain the equipment and shut off the supply if the heat is not maintained.
- h. Dishonest or criminal act (including theft) by you, any of your partners, members, officers, managers, employees (including temporary employees and leased workers), directors, trustees or authorized representatives, whether acting alone or in collusion with each other or with any other party; or theft by any person to whom you entrust the property for any purpose, whether acting alone or in collusion with any other party.

This exclusion:

- (1) Applies whether or not an act occurs during your normal hours of operation;
  - (2) Does not apply to acts of destruction by your employees (including temporary employees and leased workers) or authorized representatives; but theft by your employees (including temporary employees and leased workers) or authorized representatives is not covered.
- i. Voluntary parting with any property by you or anyone else to whom you have entrusted the property if induced to do so by any fraudulent scheme, trick, device or false pretense.
- j. Rain, snow, ice or sleet to personal property in the open.
- k. Collapse, including any of the following conditions of property or any part of the property:
- (1) An abrupt falling down or caving in;
  - (2) Loss of structural integrity, including separation of parts of the property or property in danger of falling down or caving in; or
  - (3) Any cracking, bulging, sagging, bending, leaning, settling, shrinkage or expansion as such condition relates to (1) or (2) above.

But if collapse results in a Covered Cause of Loss at the described premises, we will pay for the loss or damage caused by that Covered Cause of Loss.

This exclusion, k., does not apply:

- (a) To the extent that coverage is provided under the Additional Coverage, Collapse; or

- (b) To collapse caused by one or more of the following:

- (i) The "specified causes of loss";
- (ii) Breakage of building glass;
- (iii) Weight of rain that collects on a roof; or
- (iv) Weight of people or personal property.

- l. Discharge, dispersal, seepage, migration, release or escape of "pollutants" unless the discharge, dispersal, seepage, migration, release or escape is itself caused by any of the "specified causes of loss". But if the discharge, dispersal, seepage, migration, release or escape of "pollutants" results in a "specified cause of loss", we will pay for the loss or damage caused by that "specified cause of loss".

This exclusion, l., does not apply to damage to glass caused by chemicals applied to the glass.

- m. Neglect of an insured to use all reasonable means to save and preserve property from further damage at and after the time of loss.

3. We will not pay for loss or damage caused by or resulting from any of the following, 3.a. through 3.c. But if an excluded cause of loss that is listed in 3.a. through 3.c. results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

- a. Weather conditions. But this exclusion only applies if weather conditions contribute in any way with a cause or event excluded in Paragraph 1. above to produce the loss or damage.

- b. Acts or decisions, including the failure to act or decide, of any person, group, organization or governmental body.

- c. Faulty, inadequate or defective:

- (1) Planning, zoning, development, surveying, siting;
- (2) Design, specifications, workmanship, repair, construction, renovation, remodeling, grading, compaction;
- (3) Materials used in repair, construction, renovation or remodeling; or
- (4) Maintenance;

of part or all of any property on or off the described premises.



#### 4. Special Exclusions

The following provisions apply only to the specified Coverage Forms:

**a. Business Income (And Extra Expense) Coverage Form, Business Income (Without Extra Expense) Coverage Form, Or Extra Expense Coverage Form**

We will not pay for:

- (1) Any loss caused by or resulting from:
  - (a) Damage or destruction of "finished stock"; or
  - (b) The time required to reproduce "finished stock".This exclusion does not apply to Extra Expense.
- (2) Any loss caused by or resulting from direct physical loss or damage to radio or television antennas (including satellite dishes) and their lead-in wiring, masts or towers.
- (3) Any increase of loss caused by or resulting from:
  - (a) Delay in rebuilding, repairing or replacing the property or resuming "operations", due to interference at the location of the rebuilding, repair or replacement by strikers or other persons; or
  - (b) Suspension, lapse or cancellation of any license, lease or contract. But if the suspension, lapse or cancellation is directly caused by the "suspension" of "operations", we will cover such loss that affects your Business Income during the "period of restoration" and any extension of the "period of restoration" in accordance with the terms of the Extended Business Income Additional Coverage and the Extended Period Of Indemnity Optional Coverage or any variation of these.
- (4) Any Extra Expense caused by or resulting from suspension, lapse or cancellation of any license, lease or contract beyond the "period of restoration".

- (5) Any other consequential loss.

**b. Leasehold Interest Coverage Form**

- (1) Paragraph B.1.a., Ordinance Or Law, does not apply to insurance under this Coverage Form.
- (2) We will not pay for any loss caused by:
  - (a) Your cancelling the lease;
  - (b) The suspension, lapse or cancellation of any license; or
  - (c) Any other consequential loss.

**c. Legal Liability Coverage Form**

- (1) The following exclusions do not apply to insurance under this Coverage Form:
  - (a) Paragraph B.1.a. Ordinance Or Law;
  - (b) Paragraph B.1.c. Governmental Action;
  - (c) Paragraph B.1.d. Nuclear Hazard;
  - (d) Paragraph B.1.e. Utility Services; and
  - (e) Paragraph B.1.f. War And Military Action.
- (2) The following additional exclusions apply to insurance under this Coverage Form:

**(a) Contractual Liability**

We will not defend any claim or "suit", or pay damages that you are legally liable to pay, solely by reason of your assumption of liability in a contract or agreement. But this exclusion does not apply to a written lease agreement in which you have assumed liability for building damage resulting from an actual or attempted burglary or robbery, provided that:

- (i) Your assumption of liability was executed prior to the accident; and
- (ii) The building is Covered Property under this Coverage Form.

**(b) Nuclear Hazard**

We will not defend any claim or "suit", or pay any damages, loss, expense or obligation, resulting from nuclear reaction or radiation, or radioactive contamination, however caused.



## 5. Additional Exclusion

The following provisions apply only to the specified property:

### Loss Or Damage To Products

We will not pay for loss or damage to any merchandise, goods or other product caused by or resulting from error or omission by any person or entity (including those having possession under an arrangement where work or a portion of the work is outsourced) in any stage of the development, production or use of the product, including planning, testing, processing, packaging, installation, maintenance or repair. This exclusion applies to any effect that compromises the form, substance or quality of the product. But if such error or omission results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

## C. Limitations

The following limitations apply to all policy forms and endorsements, unless otherwise stated:

1. We will not pay for loss of or damage to property, as described and limited in this section. In addition, we will not pay for any loss that is a consequence of loss or damage as described and limited in this section.
  - a. Steam boilers, steam pipes, steam engines or steam turbines caused by or resulting from any condition or event inside such equipment. But we will pay for loss of or damage to such equipment caused by or resulting from an explosion of gases or fuel within the furnace of any fired vessel or within the flues or passages through which the gases of combustion pass.
  - b. Hot water boilers or other water heating equipment caused by or resulting from any condition or event inside such boilers or equipment, other than an explosion.
  - c. The interior of any building or structure, or to personal property in the building or structure, caused by or resulting from rain, snow, sleet, ice, sand or dust, whether driven by wind or not, unless:
    - (1) The building or structure first sustains damage by a Covered Cause of Loss to its roof or walls through which the rain, snow, sleet, ice, sand or dust enters; or
    - (2) The loss or damage is caused by or results from thawing of snow, sleet or ice on the building or structure.

- d. Building materials and supplies not attached as part of the building or structure, caused by or resulting from theft.

However, this limitation does not apply to:

- (1) Building materials and supplies held for sale by you, unless they are insured under the Builders Risk Coverage Form; or
  - (2) Business Income Coverage or Extra Expense Coverage.
- e. Property that is missing, where the only evidence of the loss or damage is a shortage disclosed on taking inventory, or other instances where there is no physical evidence to show what happened to the property.
  - f. Property that has been transferred to a person or to a place outside the described premises on the basis of unauthorized instructions.
  - g. Lawns, trees, shrubs or plants which are part of a vegetated roof, caused by or resulting from:
    - (1) Dampness or dryness of atmosphere or of soil supporting the vegetation;
    - (2) Changes in or extremes of temperature;
    - (3) Disease;
    - (4) Frost or hail; or
    - (5) Rain, snow, ice or sleet.
2. We will not pay for loss of or damage to the following types of property unless caused by the "specified causes of loss" or building glass breakage:
    - a. Animals, and then only if they are killed or their destruction is made necessary.
    - b. Fragile articles such as statuary, marbles, chinaware and porcelains, if broken. This restriction does not apply to:
      - (1) Glass; or
      - (2) Containers of property held for sale.
    - c. Builders' machinery, tools and equipment owned by you or entrusted to you, provided such property is Covered Property.

However, this limitation does not apply:

      - (1) If the property is located on or within 100 feet of the described premises, unless the premises is insured under the Builders Risk Coverage Form; or
      - (2) To Business Income Coverage or to Extra Expense Coverage.



3. The special limit shown for each category, a. through d., is the total limit for loss of or damage to all property in that category. The special limit applies to any one occurrence of theft, regardless of the types or number of articles that are lost or damaged in that occurrence. The special limits are (unless a higher limit is shown in the Declarations):

- a. \$2,500 for furs, fur garments and garments trimmed with fur.
- b. \$2,500 for jewelry, watches, watch movements, jewels, pearls, precious and semiprecious stones, bullion, gold, silver, platinum and other precious alloys or metals. This limit does not apply to jewelry and watches worth \$100 or less per item.
- c. \$2,500 for patterns, dies, molds and forms.
- d. \$250 for stamps, tickets, including lottery tickets held for sale, and letters of credit.

These special limits are part of, not in addition to, the Limit of Insurance applicable to the Covered Property.

This limitation, C.3., does not apply to Business Income Coverage or to Extra Expense Coverage.

4. We will not pay the cost to repair any defect to a system or appliance from which water, other liquid, powder or molten material escapes. But we will pay the cost to repair or replace damaged parts of fire-extinguishing equipment if the damage:

- a. Results in discharge of any substance from an automatic fire protection system; or
- b. Is directly caused by freezing.

However, this limitation does not apply to Business Income Coverage or to Extra Expense Coverage.

#### **D. Additional Coverage – Collapse**

The coverage provided under this Additional Coverage, Collapse, applies only to an abrupt collapse as described and limited in D.1. through D.7.

1. For the purpose of this Additional Coverage, Collapse, abrupt collapse means an abrupt falling down or caving in of a building or any part of a building with the result that the building or part of the building cannot be occupied for its intended purpose.

2. We will pay for direct physical loss or damage to Covered Property, caused by abrupt collapse of a building or any part of a building that is insured under this Coverage Form or that contains Covered Property insured under this Coverage Form, if such collapse is caused by one or more of the following:

- a. Building decay that is hidden from view, unless the presence of such decay is known to an insured prior to collapse;
- b. Insect or vermin damage that is hidden from view, unless the presence of such damage is known to an insured prior to collapse;
- c. Use of defective material or methods in construction, remodeling or renovation if the abrupt collapse occurs during the course of the construction, remodeling or renovation.
- d. Use of defective material or methods in construction, remodeling or renovation if the abrupt collapse occurs after the construction, remodeling or renovation is complete, but only if the collapse is caused in part by:
  - (1) A cause of loss listed in 2.a. or 2.b.;
  - (2) One or more of the "specified causes of loss";
  - (3) Breakage of building glass;
  - (4) Weight of people or personal property; or
  - (5) Weight of rain that collects on a roof.

3. This **Additional Coverage – Collapse** does not apply to:

- a. A building or any part of a building that is in danger of falling down or caving in;
- b. A part of a building that is standing, even if it has separated from another part of the building; or
- c. A building that is standing or any part of a building that is standing, even if it shows evidence of cracking, bulging, sagging, bending, leaning, settling, shrinkage or expansion.

4. With respect to the following property:

- a. Outdoor radio or television antennas (including satellite dishes) and their lead-in wiring, masts or towers;



- b. Awnings, gutters and downspouts;
  - c. Yard fixtures;
  - d. Outdoor swimming pools;
  - e. Fences;
  - f. Piers, wharves and docks;
  - g. Beach or diving platforms or appurtenances;
  - h. Retaining walls; and
  - i. Walks, roadways and other paved surfaces;
- if an abrupt collapse is caused by a cause of loss listed in 2.a. through 2.d., we will pay for loss or damage to that property only if:
- (1) Such loss or damage is a direct result of the abrupt collapse of a building insured under this Coverage Form; and
  - (2) The property is Covered Property under this Coverage Form.
5. If personal property abruptly falls down or caves in and such collapse is **not** the result of abrupt collapse of a building, we will pay for loss or damage to Covered Property caused by such collapse of personal property only if:
- a. The collapse of personal property was caused by a cause of loss listed in 2.a. through 2.d.;
  - b. The personal property which collapses is inside a building; and
  - c. The property which collapses is not of a kind listed in 4., regardless of whether that kind of property is considered to be personal property or real property.
- The coverage stated in this Paragraph 5. does not apply to personal property if marring and/or scratching is the only damage to that personal property caused by the collapse.
- 6. This Additional Coverage, Collapse, does not apply to personal property that has not abruptly fallen down or caved in, even if the personal property shows evidence of cracking, bulging, sagging, bending, leaning, settling, shrinkage or expansion.
  - 7. This Additional Coverage, Collapse, will not increase the Limits of Insurance provided in this Coverage Part.
  - 8. The term Covered Cause of Loss includes the Additional Coverage, Collapse, as described and limited in D.1. through D.7.

#### **E. Additional Coverage – Limited Coverage For "Fungus", Wet Rot, Dry Rot And Bacteria**

- 1. The coverage described in E.2. and E.6. only applies when the "fungus", wet or dry rot or bacteria are the result of one or more of the following causes that occur during the policy period and only if all reasonable means were used to save and preserve the property from further damage at the time of and after that occurrence:
  - a. A "specified cause of loss" other than fire or lightning; or
  - b. Flood, if the Flood Coverage Endorsement applies to the affected premises.

This Additional Coverage does not apply to lawns, trees, shrubs or plants which are part of a vegetated roof.
- 2. We will pay for loss or damage by "fungus", wet or dry rot or bacteria. As used in this Limited Coverage, the term loss or damage means:
  - a. Direct physical loss or damage to Covered Property caused by "fungus", wet or dry rot or bacteria, including the cost of removal of the "fungus", wet or dry rot or bacteria;
  - b. The cost to tear out and replace any part of the building or other property as needed to gain access to the "fungus", wet or dry rot or bacteria; and
  - c. The cost of testing performed after removal, repair, replacement or restoration of the damaged property is completed, provided there is a reason to believe that "fungus", wet or dry rot or bacteria are present.
- 3. The coverage described under E.2. of this Limited Coverage is limited to \$15,000. Regardless of the number of claims, this limit is the most we will pay for the total of all loss or damage arising out of all occurrences of "specified causes of loss" (other than fire or lightning) and Flood which take place in a 12-month period (starting with the beginning of the present annual policy period). With respect to a particular occurrence of loss which results in "fungus", wet or dry rot or bacteria, we will not pay more than a total of \$15,000 even if the "fungus", wet or dry rot or bacteria continue to be present or active, or recur, in a later policy period.



4. The coverage provided under this Limited Coverage does not increase the applicable Limit of Insurance on any Covered Property. If a particular occurrence results in loss or damage by "fungus", wet or dry rot or bacteria, and other loss or damage, we will not pay more, for the total of all loss or damage, than the applicable Limit of Insurance on the affected Covered Property.

If there is covered loss or damage to Covered Property, not caused by "fungus", wet or dry rot or bacteria, loss payment will not be limited by the terms of this Limited Coverage, except to the extent that "fungus", wet or dry rot or bacteria cause an increase in the loss. Any such increase in the loss will be subject to the terms of this Limited Coverage.

5. The terms of this Limited Coverage do not increase or reduce the coverage provided under Paragraph F.2. (Water Damage, Other Liquids, Powder Or Molten Material Damage) of this Causes Of Loss form or under the Additional Coverage, Collapse.
6. The following, 6.a. or 6.b., applies only if Business Income and/or Extra Expense Coverage applies to the described premises and only if the "suspension" of "operations" satisfies all terms and conditions of the applicable Business Income and/or Extra Expense Coverage Form:
- a. If the loss which resulted in "fungus", wet or dry rot or bacteria does not in itself necessitate a "suspension" of "operations", but such "suspension" is necessary due to loss or damage to property caused by "fungus", wet or dry rot or bacteria, then our payment under Business Income and/or Extra Expense is limited to the amount of loss and/or expense sustained in a period of not more than 30 days. The days need not be consecutive.
- b. If a covered "suspension" of "operations" was caused by loss or damage other than "fungus", wet or dry rot or bacteria but remediation of "fungus", wet or dry rot or bacteria prolongs the "period of restoration", we will pay for loss and/or expense sustained during the delay (regardless of when such a delay occurs during the "period of restoration"), but such coverage is limited to 30 days. The days need not be consecutive.

## F. Additional Coverage Extensions

### 1. Property In Transit

This Extension applies only to your personal property to which this form applies.

- a. You may extend the insurance provided by this Coverage Part to apply to your personal property (other than property in the care, custody or control of your salespersons) in transit more than 100 feet from the described premises. Property must be in or on a motor vehicle you own, lease or operate while between points in the coverage territory.
- b. Loss or damage must be caused by or result from one of the following causes of loss:
- (1) Fire, lightning, explosion, windstorm or hail, riot or civil commotion, or vandalism.
- (2) Vehicle collision, upset or overturn. Collision means accidental contact of your vehicle with another vehicle or object. It does not mean your vehicle's contact with the roadbed.
- (3) Theft of an entire bale, case or package by forced entry into a securely locked body or compartment of the vehicle. There must be visible marks of the forced entry.
- c. The most we will pay for loss or damage under this Extension is \$5,000.

This Coverage Extension is additional insurance. The Additional Condition, Coinsurance, does not apply to this Extension.

### 2. Water Damage, Other Liquids, Powder Or Molten Material Damage

If loss or damage caused by or resulting from covered water or other liquid, powder or molten material damage loss occurs, we will also pay the cost to tear out and replace any part of the building or structure to repair damage to the system or appliance from which the water or other substance escapes. This Coverage Extension does not increase the Limit of Insurance.

### 3. Glass

- a. We will pay for expenses incurred to put up temporary plates or board up openings if repair or replacement of damaged glass is delayed.



- b. We will pay for expenses incurred to remove or replace obstructions when repairing or replacing glass that is part of a building. This does not include removing or replacing window displays.

This Coverage Extension F.3. does not increase the Limit of Insurance.

#### G. Definitions

1. "Fungus" means any type or form of fungus, including mold or mildew, and any mycotoxins, spores, scents or by-products produced or released by fungi.
2. "Specified causes of loss" means the following: fire; lightning; explosion; windstorm or hail; smoke; aircraft or vehicles; riot or civil commotion; vandalism; leakage from fire-extinguishing equipment; sinkhole collapse; volcanic action; falling objects; weight of snow, ice or sleet; water damage.
  - a. Sinkhole collapse means the sudden sinking or collapse of land into underground empty spaces created by the action of water on limestone or dolomite. This cause of loss does not include:
    - (1) The cost of filling sinkholes; or
    - (2) Sinking or collapse of land into man-made underground cavities.
  - b. Falling objects does not include loss or damage to:
    - (1) Personal property in the open; or
    - (2) The interior of a building or structure, or property inside a building or structure, unless the roof or an outside wall of the building or structure is first damaged by a falling object.

#### c. Water damage means:

- (1) Accidental discharge or leakage of water or steam as the direct result of the breaking apart or cracking of a plumbing, heating, air conditioning or other system or appliance (other than a sump system including its related equipment and parts), that is located on the described premises and contains water or steam; and
- (2) Accidental discharge or leakage of water or waterborne material as the direct result of the breaking apart or cracking of a water or sewer pipe that is located off the described premises and is part of a municipal potable water supply system or municipal sanitary sewer system, if the breakage or cracking is caused by wear and tear.

But water damage does not include loss or damage otherwise excluded under the terms of the Water Exclusion. Therefore, for example, there is no coverage under this policy in the situation in which discharge or leakage of water results from the breaking apart or cracking of a pipe which was caused by or related to weather-induced flooding, even if wear and tear contributed to the breakage or cracking. As another example, and also in accordance with the terms of the Water Exclusion, there is no coverage for loss or damage caused by or related to weather-induced flooding which follows or is exacerbated by pipe breakage or cracking attributable to wear and tear.

To the extent that accidental discharge or leakage of water falls within the criteria set forth in c.(1) or c.(2) of this definition of "specified causes of loss," such water is not subject to the provisions of the Water Exclusion which preclude coverage for surface water or water under the surface of the ground.

POLICY NUMBER:

COMMERCIAL PROPERTY  
CP 15 05 10 12

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**FOOD CONTAMINATION  
(BUSINESS INTERRUPTION AND EXTRA EXPENSE)**

This endorsement modifies insurance provided under the following:

BUSINESS INCOME (AND EXTRA EXPENSE) COVERAGE FORM

**SCHEDULE**

Premises Number:	Building Number:
Description Of Business:	
Food Contamination Limit Of Insurance (Annual Aggregate Limit): \$	Additional Advertising Expense Limit Of Insurance (Annual Aggregate Limit): \$
Premises Number:	Building Number:
Description Of Business:	
Food Contamination Limit Of Insurance (Annual Aggregate Limit): \$	Additional Advertising Expense Limit Of Insurance (Annual Aggregate Limit): \$
Premises Number:	Building Number:
Description Of Business:	
Food Contamination Limit Of Insurance (Annual Aggregate Limit): \$	Additional Advertising Expense Limit Of Insurance (Annual Aggregate Limit): \$
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	



**A. The following is added to Additional Coverages:**

**Food Contamination**

1. If the business described in the Schedule is ordered closed by the Board of Health or any other governmental authority as a result of the discovery or suspicion of "food contamination", we will pay:
  - a. Your expense to clean your equipment as required by the Board of Health or any other governmental authority;
  - b. Your cost to replace the food which is, or is suspected to be, contaminated;
  - c. Your expense to provide necessary medical tests or vaccinations for your employees (including temporary and leased employees) who are potentially infected by the "food contamination". However, we will not pay for any expense that is otherwise covered under a Workers' Compensation Policy;
  - d. The loss of Business Income you sustain due to the necessary "suspension" of your "operations" as a result of the "food contamination". The coverage for Business Income will begin 24 hours after you receive notice of closing from the Board of Health or any other governmental authority; and
  - e. Additional advertising expenses you incur to restore your reputation.
2. Subject to Paragraph 3., the most we will pay for the total of all loss and expense under Paragraphs 1.a. through 1.d. is the Food Contamination Limit Of Insurance indicated in the Schedule.

Subject to Paragraph 3., the most we will pay for all expense under Paragraph 1.e. is the Additional Advertising Expense Limit Of Insurance indicated in the Schedule.

3. The applicable Limit is an annual aggregate limit and as such is the most we will pay for the total of all covered loss and expense caused by all occurrences in a 12-month period (starting with the beginning of the present annual policy period), regardless of the number of occurrences during that period of time. Thus, if the first occurrence does not exhaust the applicable Limit, then the balance of that Limit is available for a subsequent occurrence. If an occurrence begins during one annual policy period and ends during the following annual policy period, any Limit applicable to the following annual policy period will not apply to that occurrence.
  4. We will not pay any fines or penalties levied against you by the Board of Health or any other governmental authority as a result of the discovery or suspicion of "food contamination" at the described premises.
  5. With respect to the coverage provided under this endorsement, any exclusion of virus or bacteria in this policy does not apply.
- B. For the purposes of this endorsement, "food contamination" means an outbreak of food poisoning or food-related illness of one or more persons arising out of:**
1. Tainted food you distributed or purchased;
  2. Food which has been improperly processed, stored, handled or prepared in the course of your business operations; or
  3. Food which has been contaminated by virus or bacteria transmitted through one or more of your employees, including temporary and leased employees.



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